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THE MODERN LAW OF RATING

THE MODERN LAW OF RATING

(OUTSIDE LONDON)

BY

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PREFACE

THE Rating and Valuation Act, 1925, came into operation on the 1st April last; and that date marks an epoch in the law of rating. Although the principles which govern the incidence of rating are unaltered, and those which govern valuation are altered only in certain specific points, the whole machinery for giving effect to those principles is new, and is to be worked by new authorities with new powers. This change of procedure is not confined to the powers and duties of the assessing authorities; the rights and remedies of the ratepayers for securing equitable assessments have undergone drastic alteration, and are almost wholly different from the old forms of proceeding.

Further, the alteration of the machinery of assessment—and especially the abolition of a "gross value" for large and important classes of property—inevitably entails a rearrangement of the old principles of valuation from a new point of view.

In my edition of the Act itself, I have drawn attention to the changes made, and dealt with the particular portions of the subject affected by those amendments. The time now seems ripe for a new treatise covering the whole field, the more so that certain far-reaching decisions have been given by the Courts in recent years on this branch of the law which involve a drastic revision of long-established views. This is especially the case with regard to the principles

of rateable occupation, and to those which govern the valuation of public utility undertakings.

It has been my endeavour, therefore, to give an account of the law of rating as it stands—using that phrase in its ordinary sense, and not as including the financial arrangements of local authorities or their financial relations one with another—and to make that account clear and concise, while at the same time making it complete. The book is intended both for those who were familiar with the subject under the old Acts (whether in advising the ratepayers or the authorities), as well as for those whom the new Act brings for the first time into contact with it. Where the rule of law is well settled, I have stated it briefly without recapitulating the stages which led up to its adoption ; reserving fuller treatment for those questions which are still in debate. The tendency of the Courts is to decline to be unduly fettered by an older decision which fails to commend itself at the present day ; and where a case seems no longer likely to be followed, I have confined myself to citing it with a caution rather than enter into a detailed discussion of its authority. These methods perhaps involve the risk of appearing too dogmatic ; but it has seemed necessary to adopt them in the attempt to afford the reader a complete and intelligible view of the modern law of rating.

The first chapter deals with the rates and the conditions of their levy ; the three following with the incidence of the rates : Chapter V contains a general account of the valuation list and its effect ; and the principles of valuation applicable to different classes of hereditaments (grouped as they are grouped by the Act of 1925) are considered in Chapters VI–XII. The next four chapters deal with procedure in the

making of valuation lists, objections and appeals ; and Chapter XVII with the collection and recovery of rates. The relevant portions of statutes and statutory orders are printed in the Appendix.

The debt of gratitude I owe to Ryde on Rating—and to its learned author—is far greater than I am able to express.

My thanks are due to my friend Mr. Michael E. Rowe of Gray's Inn, for his help in seeing this volume through the press.

E. M. K.

September, 1927

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NOTE

Statutes and sections referred to in the text and notes will be found in Appendix I, and Statutory Rules and Orders in Appendix II; see Summary Tables on p. 318 and p. 404.

References to sections (where no other statute is indicated) are intended to refer to the Rating and Valuation Act, 1925.

THE MODERN LAW OF RATING

INTRODUCTORY

When the Rating and Valuation Act, 1925, has attained its full operation, the only rate levied will be a " general " rate," except that in rural districts a " special rate " is to be levied for a limited purpose. These rates will be made by the urban and rural authorities. The levy of the general rate in county boroughs and other boroughs and urban districts is, however, postponed until valuation lists made under the new Act have come into force; but in the interval the urban authority is to levy the poor rate, as well as the urban rates which it has hitherto been accustomed to make.

Rates are payable (speaking generally) by persons in " rateable occupation " of hereditaments. The basis of their assessment is the " rateable value " of the hereditament occupied; this is to be taken from the " valua- " tion list " ; and the lists are now to be made under the Act of 1925. The " rateable values " are to be ascertained or estimated in accordance with different definitions applicable to different classes of property.

The nature of the general and special rates, the manner of their levy, the principles of rateable occupation, the exemptions allowed, the rating of owners, the

ascertainment of rateable value, the method of making and amending valuation lists, the remedies open to the ratepayers (and to rating and assessment authorities) by way of objection and appeal, and the collection and recovery of the rates, form the subject of this volume.

CHAPTER I

THE RATES: THEIR NATURE AND LEVY

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The General Rate.—The Rating and Valuation Act, 1925, reduces the number of different rates that were formerly levied, to one in an urban rating area, and to two in a rural rating area. In an urban rating area, the "general rate" is to be levied, in lieu of the poor rate as well as of any other rate which the urban authority had power to make, whether this was levied under a general statute, like the general district rate under the Public Health Act, 1875, or was levied under a local Act; and if the poor rate and the urban rates were already consolidated by a local Act, then the new general rate is to take the place of that consolidated rate (*a*). The above provision is to have effect, as

(*a*) Act of 1925, s. 2 (1), (8); sub-s. (8) seems to preserve the name of such a consolidated rate, but little else, except the privileges and provisions preserved by s. 64, *vide infra*, pp. 80, 92. See definition of "Rate" in s. 68.

regards any urban rating area (or part of such area for which a separate valuation list is made), on the date when the first new valuation list made under the Act for that area or part comes into operation (*b*). There is to be a single general rate for the whole urban area; but where the rating area is divided into parts for the purposes of a new valuation list (*c*), it would appear that at first a separate general rate must be made for each such part, until such time as there is a valuation list in force for every part (*d*).

In rural rating areas, no question of date or division arises; as from April 1, 1927, the rating authority is to make a general rate for the whole area, in lieu of the former poor rates made for each parish (*e*); but a special rate is also to be levied for certain classes of expenses (*f*).

In future, therefore (apart from the special rate in rural areas), expenses of all kinds requiring to be raised by rates in urban as well as rural areas will be raised by means of a general rate (*g*).

Besides raising an amount sufficient for these expenses of the rating authority itself, the general rate (whether in an urban or a rural rating area) will be made for an additional number of pennies in the pound required to be levied by a precept received by the rating authority from a board of guardians or other precepting

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(*b*) S. 2 (1), read with "Date of the first new valuation" as interpreted by s. 68. As to valuation lists and their coming into operation, see Chap. V and p. 110.

(*c*) S. 19 (1), proviso (*b*).

(*d*) See above notes.

(*e*) S. 2 (2); the date mentioned is the "appointed day," s. 68.

(*f*) S. 3, *infra*, p. 16.

(*g*) See s. 12 (1); and s. 68, definition of "rate." The so-called "rates" which that definition excludes, *e.g.* "private improvement rates" under the Public Health Acts, will still be levied.

authority (*h*). This provision will apply to precepts received from county councils for expenses of any period beginning on or after April 1, 1929 ; but for any earlier period, the county council precept will require a lump sum to be raised from each parish as heretofore ; it is, however, to be addressed directly to the rating authority for the rating area which includes that parish, and that authority will raise the sums required by means of the general rate (*i*).

Any part of the expenses of a rating authority or of a precepting authority which is chargeable separately on any part of a rating area is to be levied as an " addi- " tional item " of the general rate, and " together with " that rate (*k*). Such an additional item will have all the characteristics of the general rate, except that it will be levied over a part only of the rating area (urban or rural), and not over the whole. It must not include expenses leviable by a special rate in a rural area, except that such expenses may be levied as an additional item of the general rate, where they amount to less than £10, or can be met by a rate of less than 1*d.* in the pound (*l*). There is an express direction that the expenses of a library authority of a parish which is a library district shall be levied as an additional item, where that authority is other than the county council (*m*).

(*h*) S. 9 (1), (2). The new system of precepting is not within the scope of this volume ; it is dealt with in Konstam's Rating and Valuation Act, 1925.

(*i*) S. 9 (1), (2), and 7th Sched., art. 10 ; see last note. In an urban area until the date of the first new valuation, however, the precept will be met out of the poor rate, *vide infra*, p. 4.

(*k*) S. 2 (5), (6), s. 9 (2) (*b*) (i).

(*l*) S. 2 (5), s. 3 (1), proviso ; see p. 16, *infra*.

(*m*) S. 2 (6). See Public Libraries Act, 1892 (55 & 56 Vict. c. 53), s. 5 (1) ; 1901 (1 Edw. 7, c. 19), s. 6 ; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 7 (7), s. 19 (4). See above as to expenses of a county council, which may include library expenses.

The Poor Rate.—The poor rate, as has been seen, ceases to be levied in rural rating areas as from April 1, 1927. But in urban rating areas a general rate is only to be levied as from the date of the first new valuation (*n*), and the poor rate survives till then (except where it had already been " consolidated " with another rate by a local Act), together with any general district rate or rate under a local Act that has hitherto been levied by the urban authority. In the interim, however, the poor rate is made by the rating authority, and for the whole rating area (*o*), but otherwise it is made for the same purposes as heretofore. It is also made under the conditions previously prevailing (*p*), save that it is made (like the general rate) by a resolution of the rating authority without allowance by the justices (*q*) ; notice of the rate is given in the same way as of a general rate (*r*) ; and it may be amended in the same way as a general rate (*s*). The new provisions which regulate the amount payable in the case of a change of occupation during the period of a rate are also applicable to a poor rate (*t*). The purposes for which the poor rate is made include the satisfaction of precepts (*u*) ; and if by reason of a precept or for any other reason, any amount is chargeable separately on a parish or on any part of the area, it is levied as an additional item of the poor rate, and together with it (*x*)—that is,

(*n*) See p. 4, *supra*.

(*o*) Act of 1925, 7th Sched., art. 9.

(*p*) As to these conditions, see Ryde on Rating, 5th edn.

(*q*) S. 4 (1), *vide infra*, p. 11. S. 4 (5) also applies to the poor rate, so that the description of a person as " occupier " is sufficient, *vide infra*, p. 9.

(*r*) S. 6, *infra*, p. 13. (*s*) S. 5, *infra*, p. 14.

(*t*) S. 4 (4), *vide infra*, p. 10.

(*u*) 7th Sched., arts. 9, 10 ; see p. 4, *supra*.

(*x*) Art. 9, proviso.

under the same conditions as the poor rate except that it is not levied over the whole rating area.

The power to require a tenant or lodger to pay rent to the rating authority till arrears of rates are paid off, applies to a poor rate made as above (*y*).

Rating Areas and Authorities: Urban and Rural.—Every county borough, every other municipal borough and every urban district, is now an urban rating area (*z*). Every rural district is a rural rating area (*a*).

In an urban rating area which is a county borough, the county borough council is the rating authority; in an urban rating area which is a borough and not a county borough, the borough council is the rating authority; in an urban rating area, which is an urban district and not a borough, the urban district council is the rating authority (*b*).

After the date of the first new valuation, therefore, every one of the above councils will raise all its expenses (except those which are met from some other source than rates, *e.g.* rents or receipts from trading undertakings) by means of a general rate (*c*).

In a rural rating area, the rural district council is

(*y*) S. 15, *infra*, p. 10.

(*z*) See definition in s. 68. The phrase "urban district" includes a county borough as well as a borough not being a county borough, Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 6.

(*a*) See definition in s. 68; "rural district" is the name given by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 21 (2), to the district of the rural council set up by that provision.

(*b*) Act of 1925, s. 1 (1). The words "the council of every urban "district" which are there used include borough and urban district councils, Local Government Act, 1894, s. 21 (1), (3); the separate mention of the "council of every county borough" prevents any doubt arising from the term "urban district council" in the Act of 1894 excluding the council of a county borough, see. s. 35 of that Act.

(*c*) *Vide supra*, p. 4.

the rating authority (*d*). Except for those expenses which are raised by a special rate (*e*), it raises all its expenses not met from any other source than rates by means of a general rate (*f*).

The powers of delegation to committees, possessed by either urban or rural rating authorities, do not include the power to authorise the making of any rate by a committee (*g*).

Basis of Assessment.—The general rate is levied at a uniform amount per pound on the rateable value of each hereditament in the rating area (*h*), which is in rateable occupation and is not the subject of exemption (*i*). The rateable value is to be found in a valuation list. After the first new valuation list made under this Act has come into force, that list and the lists which succeed it, will be conclusive evidence of the rateable value (*k*). Until that time, the general rate made in a rural area (*l*) will be levied according to the

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(*d*) Act of 1925, s. 1 (1); see note (*a*), *supra*. Certain additional members are appointed under s. 1 (4), but they have no powers or duties in connection with the making, etc., of rates; they are deemed to be members only for the purposes of Part II of the Act which deals with valuation lists, *vide infra*, p. 107.

(*e*) S. 3; see p. 16.

(*f*) *Vide supra*, p. 4.

(*g*) This power is expressly excepted by the Public Health Act, 1875, s. 200 (applying to all borough councils), and the Local Government Act, 1894, s. 56 (1), applying to other urban councils and to rural councils (see 2nd Sched. to that Act), which are incorporated by s. 1 (3) of the Act of 1925.

(*h*) S. 2 (3); an "additional item" (see p. 5, *supra*) will be levied in the same way, but on the rateable value of each hereditament in the parish or part affected.

(*i*) This qualification follows from the application of the poor rate enactments by s. 2 (3), and from the provisions of s. 64.

(*k*) S. 20 (1); "the valuation list" means that "made under this "Act," s. 68.

(*l*) See p. 4, *supra*.

rateable values shown in valuation lists made under the Union Assessment Acts, 1862–80 (*m*), subject to the reduction allowed by the Agricultural Rates Acts, 1896 and 1923 (*n*).

Persons liable to the Rate.—The enactments applicable to the poor rate are applied to the general rate, except so far as they are modified by the Act of 1925 (*o*). The general rate is therefore payable as a rule by the occupiers of rateable hereditaments (*p*). Exceptions to this rule are found in the following special cases: tithe rentcharge attached to a benefice (*q*), sporting rights severed from the occupation of the land (*r*), mines where the royalty or dues are paid wholly in kind (*s*), and advertising stations (*t*); and further, that large class of cases, where the hereditaments are of small value or let at rents which are collected more than once a quarter, and where the owner is either compulsorily rated or agrees to pay the rate in place of the occupier (*u*).

If the name of the occupier is not known, it is sufficient to describe him as such in the rate (*x*).

A person who is in occupation for the whole period (*y*) of the rate is, of course, liable to pay the whole rate; but a person who is in occupation for a part only of that period is liable only for a part of the

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(*m*) 25 & 26 Vict. c. 103; 27 & 28 Vict. c. 39; 43 & 44 Vict. c. 7. Cf. remarks on the poor rate, *supra*, p. 6.

(*n*) 59 & 60 Vict. c. 16; 13 & 14 Geo. 5, c. 39; see last note.

(*o*) S. 2 (3).

(*p*) 43 Eliz. c. 2, s. 1; set out in Appendix I.

(*q*) See p. 60. (*r*) See p. 63.

(*s*) See p. 19. (*t*) See p. 61.

(*u*) See Chap. III. See also Statement of Rates Act, 1919, 9 & 10 Geo. 5, c. 31.

(*x*) Act of 1925, s. 4 (5). (*y*) *Vide infra*, p. 10.

rate proportionate to the part of the period for which he is in occupation (*z*). The amount is calculated irrespective of the date on which the rate is actually made ; and if the occupier goes out of occupation during the period of the rate, and is therefore found to have paid too much, he is entitled to repayment from the rating authority unless the incoming occupier has already reimbursed him (*z*).

Where the occupier, or other person, rated for the hereditament is in arrears, the rate may be recovered from any tenant or lodger who pays rent for the whole or any part of the hereditament (*a*).

Period of the Rate.—In a rural rating area, the period in respect of which the first general rate is made commences on April 1, 1927 ; in an urban rating area, on the date on which the first new valuation list made under the Act of 1925 comes into operation (*b*). The period of each rate is fixed by the rating authority, the usual periods being six months or twelve months ; but the period of the last rate made in the financial year must end on March 31 (*b*). The date on which the period ends is to be specified in each rate ; and the period of every succeeding rate, after the first, commences with the day after that on which the preceding rate expired ; there is no interval between the two (*c*). A supplementary rate may be made at any time it is found necessary, and if made will run concurrently with that already made (*d*) ; the period of such a rate is subject to the above rules except as to its commencement.

(*z*) S. 4 (4), (*a*)—(*c*). (*a*) S. 15, *vide infra*, p. 312.

(*b*) S. 4 (2), read with definitions in s. 68 ; see pp. 3, 4, *supra*.

(*c*) S. 4 (2). As to the effect of this on changes of occupation, see p. 9, *supra*.

(*d*) S. 4 (6) ; *R.* v. *Fordham* (1839), 11 Ad. & E. 73 ; cf. *Evans* v. *Battersea Borough Council* (1908), 1 Konstam, 82.

It will be observed that the date on which the rate is made does not affect the period of the rate.

The rate may be made payable in instalments at specified times, if it is made for a period exceeding three months (*e*) ; it is a frequent practice, especially where the rate is made for a twelve-months' period, to make it payable in quarterly or half-yearly instalments.

The amount to be raised by the rate is not confined to what is required for expenditure during the period of the rate, but may include amounts likely to be required for contingencies or to cover expenditure previously incurred, or incurred before the next rate brings in sufficient money for the purpose (*f*).

Making of the Rate.—The rate is made by a resolution of the rating authority approving it ; and the date of the resolution is the date on which the rate is deemed to be made (*g*). The resolution must fix and specify the date on which the period of the rate is to terminate (*h*) ; and if the rate is made payable in instalments, this must be expressed, and the times when the instalments are payable specified (*i*).

No form of resolution has been prescribed ; and the power to prescribe the form of rate (*k*) has been exercised in a somewhat curious and complicated manner in two Orders which purport primarily to be made under the powers of the District Auditors Act, 1879 (*l*).

(*e*) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 15 ; applied by s. 2 (3) of the Act of 1925.

(*f*) Act of 1925, s. 12 (1).

(*g*) S. 4 (1).

(*h*) S. 4 (2) ; *vide supra*, p. 10.

(*i*) Poor Rate, etc., Act, 1869, s. 15, *vide supra*, note (*e*).

(*k*) Act of 1925, s. 58.

(*l*) 42 & 43 Vict. c. 6.

In a rural rating area, during the period before the first new valuation list made under the Act comes into operation (*m*), the rating officer for each collection district in the area is to keep rate books in the forms previously in use; and these books are together to constitute the rate book for the area (*n*). After that period, the rating authority are to decide whether they will keep a rate charge book in the scheduled Form B, or whether they will enter particulars of all rates made during the currency of a valuation list in additional columns of the list (*o*). In either case, rate account books in the scheduled Form F are to be kept by the rating officer of each collection district (*p*). These, together with the rate charge book or the additional column in the valuation list as the case may be, are to constitute the rate book of the rural rating area (*q*).

In an urban rating area, the rating authority do not make a general rate until the first new valuation list comes into operation (*r*). After that date they may keep a rate charge book in Form B, or use additional columns of the valuation list as above, or keep a rate book in the scheduled Form C (*s*). Here again, rate account books are to be kept in Form F for the several collection districts, but only where Form B is kept (*t*).

(*m*) *Vide supra*, p. 4.

(*n*) Rate Accounts (R. D. C.'s) Order, 1926, S. R. & O., 1926, No. 1123, arts. 4 (1) (i) (*a*), 6 (i) (*a*); see Appendix II.

(*o*) Art. 3 (2) (iii); as to the valuation list, its duration and form, see Chap. V.

(*p*) Art. 4 (1) (i) (*b*).

(*q*) Art. 6 (i) (*b*).

(*r*) *Vide supra*, p. 4.

(*s*) Rate Accounts (Borough and U. D. C.'s) Order, 1926, S. R. & O., 1926, No. 1178, art. 3 (2) (iii).

(*t*) Art. 4 (i).

And where a rate charge book in Form B is kept, that book together with the whole of those rate account books, constitutes the rate book of the rating area (*u*). The Order does not provide what is to constitute the rate book if Form B is not kept; but presumably this will, as the case may be, be constituted by the rate book in Form C, or by the additional column in the valuation list alone.

Notice and Publication of the Rate.—In order that the rate should be valid, it is necessary for the rating authority to give notice of it within seven days after it is made (*x*); that is, the day of making is excluded, and the notice must be given on or before the seventh day thereafter (*y*), whatever method of giving notice is employed.

Three such methods are open to the rating authority; either to affix a notice in writing on or near to the doors of all the churches or chapels of the Established Church in each parish affected (*z*), or to affix such a notice in some public or conspicuous place or situation in each parish affected, or to publish it in one or more newspapers circulating in the area of the rating authority. Or they may use a combination of two or more of these methods, by applying them to different parts of their area (*a*).

Custody and Inspection.—The rating authority must preserve the rate books in some public or other

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(*u*) Art. 8.

(*x*) Act of 1925, s. 6 (1).

(*y*) Cf. *Williams* v. *Burgess* (1840), 12 Ad. & E. 635.

(*z*) Parish Notices Act, 1837 (7 Will. 4, and 1 Vict. c. 45), s. 2, as applied by Act of 1925, s. 6 (2); *R.* v. *Whipp* (1843), 4 Q. B. 141; *Ormerod* v. *Chadwick* (1847), 16 M. & W. 367, at pp. 378, 380.

(*a*) S. 6 (2).

place (*e.g.* their own offices) (*b*), and it may there be inspected (*c*) by any ratepayer or by any occupier who pays a rent inclusive of rates.

The person who exercises this right may be one who pays or bears rates in another area than that to which the rate inspected relates. He may send an authorised agent to inspect it for him ; and he or his agents may take such copies or extracts as he desires. The right applies to any rate book, whether during the period of its currency, or after ; but if it is more than ten years old, a fee may be charged (*c*).

The above provisions with regard to the custody and inspection of rate books will not be easy for the rating authority to carry out, in view of the various books in daily use which are to constitute the " rate " book " for the rating area (*d*). But they are statutory provisions and must be complied with ; a penalty for obstructing any person in the exercise of his rights under s. 60 is provided in sub-s. (2).

Amendment of the Rate. — A rate may be amended (*e*) by the rating authority during the period (*f*) for which it is made, or during the period of the rate immediately succeeding, so as to make it conform with the legal provisions applicable, whether because it was incorrect when made, or because it has since become incorrect ; any clerical or arithmetical error may be

(*b*) Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 13, as applied by s. 1 (2) of the Act of 1925 ; there is not now to be a separate " rate " book " for each parish, see " Making of the Rate," *supra*, p. 12 ; and s. 13 of the Act of 1743 cannot therefore be applied literally ; but neither s. 1 (2) of the Act of 1925, nor the definition of " parish " in s. 68, affords much help in applying it.

(*c*) Act of 1925, s. 60 ; Inspection of Documents Rules, 1927.

(*d*) *Vide supra*, p. 12.

(*e*) S. 5.

(*f*) *Vide supra*, p. 10.

corrected, as may any erroneous insertions or omissions or misdescriptions; any correction of either of these classes will apply to the whole period for which the rate corrected was made (*g*). Specific power is moreover given to make any additions or corrections which appear to the authority to be rendered necessary by a hereditament coming into occupation which is newly erected, or which was unoccupied when the rate was made, by a change in the occupation (*h*), or by a hereditament previously rated as a whole becoming liable to be rated in parts (*i*); the amount payable in any of these cases will be calculated in accordance with the provisions of s. 4 (4), (*a*)-(*c*), relating to occupation for a part only of the period of the rate (*k*). An amendment duly made in the valuation list (*l*) will (speaking generally) require to be followed by an amendment made in the rate, under this provision (*m*).

To any such amendment of the valuation list, the occupier or owner affected must already have been a party; and the rate may be amended so as to accord therewith, without notice to him. But the rate may not be amended for any other cause, so as to affect the amount chargeable, unless notice has been given to the occupier (and to the owner if he is liable to pay the rates) (*n*) not less than seven days before making the amendment (*o*); and any objection made by the person served must be considered. If he desires to object,

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(*g*) Sub-s. (1) (*a*), (*b*), sub-s. (2).

(*h*) Sub-s. (1) (*c*). See "Period of Rate," *supra*, p. 10.

(*i*) *Vide infra*, p. 55.

(*k*) *Supra*, p. 9.

(*l*) See ss. 30, 35, 36, 37 (9); 4th Sched., Part III, art. 10, *infra*, pp. 244, 273, 253.

(*m*) Ses also s. 37 (10), *vide infra*, p. 251.

(*n*) See Chap. III; and p. 9, *supra*. (*o*) S. 5 (1), proviso.

he should serve the clerk of the rating authority with notice to that effect, within seven days of receiving the notice from the council (including in his calculation the date of receipt) (*p*).

The Forms B, C, and F, of which the rate book may be constituted (*q*), contain columns for entries in the rate relating to change of occupation.

Special Rates in Rural Areas only.—Where, in any part of a rural area (*r*), expenses of lighting are incurred under the Lighting and Watching Act, 1833 (*s*), or " special expenses " (*t*) are incurred under the Public Health Acts, those expenses are raised (as from April 1, 1927) by means of a special rate, made and levied in that part only by the rating authority for the area (*u*). If, however, the expenses of either kind requiring to be raised in the part concerned in any half-year ending May 31 or September 30, are less than £10, or less than a 1*d.* rate would produce, they are to be levied on that part as an additional item of the general rate (*x*).

In the case of the lighting expenses, the money is raised by the rating authority in compliance with an order directed to them by the parish council, or by the inspectors under the Act of 1833, as the case may be; and no more may be raised in any year than is sanctioned by the parish meeting (*s*). The rate is levied for the

(*p*) Cf. *Mitchell* v. *Foster* (1840), 12 Ad. & E. 472; *Browne* v. *Black*, [1912] 1 K. B. 316. The Act does not prescribe the method of making objection.

(*q*) *Vide supra*, p. 12.

(*r*) *Vide supra*, p. 7.

(*s*) 3 & 4 Will. 4, c. 90), ss. 9, 32, 33; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 7 (1) (*a*).

(*t*) Defined in the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 229.

(*u*) Act of 1925, s. 3 (1).

(*x*) *Ibid.*, proviso; *vide supra*, p. 5.

parish, or part of a parish, for which the Act of 1833 has been adopted (*y*).

The "special expenses" are incurred by the rating authority itself, acting as a rural district council under the Public Health Acts, and the rate is levied for the contributory place for which they are incurred (*z*).

The period of a special rate is to be fixed by the rating authority having regard to the period in which the charges to be met by the rate accrue (*a*); for this purpose, the authority is free from the restrictions as to the commencement and end of the period which apply to the general rate. The period is to be specified in the rate (*a*).

The special rate is (*b*), like the general rate, assessed according to the rateable value, except that as to certain classes of hereditaments it is assessed only on one-fourth of the rateable value; this partial exemption applies to agricultural land only until the first new valuation list made under the Act of 1925 comes into operation, but as to the other classes of hereditaments it is to be permanent (*c*).

The rate charge book in Form B makes provision for the entry in it of special rates; or these may be entered in additional columns of the valuation list, as in the case of a general rate (*d*).

In other respects the provisions above considered as to the making and levy of the general rate apply to the special rate.

(*y*) Act of 1833, s. 5 *sqq.*, s. 77.

(*z*) Defined in the Public Health Act, 1875 (38 & 39 Vict. c. 55, s. 229.

(*a*) S. 4 (3); *vide supra*, p. 10. (*b*) *Supra*, p. 8.

(*c*) S. 3 (2); this matter is dealt with more fully in Chap. IV.

(*d*) See p. 12, *supra*.

CHAPTER II

RATEABLE OCCUPATION

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Rateable Occupation : Practical Questions.—With certain exceptions (*a*), rates are made upon the

(*a*) See p. 9, *supra*, and Chap. III.

occupier, by virtue of the Statute of Elizabeth (*b*) which directed the overseers to raise the money required for the relief of the poor "by taxation . . . of every "occupier of lands, houses, tithes impropriate or pro- "priations of tithes coal mines or saleable underwoods," and of the Rating Act, 1874 (*c*), which amended the above lists so as to include: -(1) (instead of the last item) land used for a plantation or a wood or for the growth of saleable underwoods, and not subject to any right of common; (2) sporting rights, when severed from the occupation of the land; and (3) mines of every other kind, except where the royalty or dues were paid by handing over a share of the minerals (*d*).

The numerous questions, which have arisen by reason of the use of the word "occupier" in the Act of 1601, are now in the main settled by authority; and it may be said broadly that any kind of legal or physical possession (being exclusive, and not being the mere receipt of rent from a person who is in law a tenant) constitutes rateable occupation, provided that some use is being made of the premises and some benefit is thus being derived from their possession.

But another aspect—or rather a double aspect—of the matter remains as one of practical difficulty; the subject of the extent of a particular rateable occupation. On this subject two main questions arise. Where one person alone is in occupation of a set of premises, is his occupation of the whole such that the premises constitute a single rateable hereditament, or does he separately occupy one or more parts of the premises? And again, where there is more than one person who

(*b*) Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, applied by s. 2 (3) of the Act of 1925.

(*c*) (37 & 38 Vict. c. 54), s. 3; see also s. 14. (*d*) S. 13.

might be described as being in occupation of the premises or of a part, are those persons joint occupiers of the whole, is each the occupier of a part, or is one the occupier of the whole and the other a mere lodger or licensee ? The answer to these questions may in many cases have an important bearing not only upon the liability to rates, but upon the amount of rateable value.

As rateable occupation is now understood to be of so comprehensive a nature, and as its characteristics are now well settled, it has been thought desirable to indicate these broadly, reserving more detailed attention to the consideration of the questions above stated.

Characteristics of Rateable Occupation.—It has been stated above that possession is sufficient to constitute rateable occupation, provided that some use is made of the premises. This observation may seem at first sight to be contrary to a portion of the statement in the judgment of LUSH, J., in *R.* v. *St. Pancras Assessment Committee* (*e*), cited by BUCKLEY, L.J., in *Liverpool Corporation* v. *Chorley Assessment Committee* (*f*), as being " the best summary of the law as to what con-
" stitutes occupation." The passage so cited is as follows :
" Occupation includes possession as its primary element,
" but it also includes something more. Legal posses-
" sion does not of itself constitute an occupation. The
" owner of a vacant house is in possession, and may
" maintain trespass against any one who invades it,
" but as long as he leaves it vacant he is not rateable
" for it as an occupier. If, however, he furnishes it,
" and keeps it ready for habitation whenever he pleases
" to go to it, he is an occupier, though he may not reside

(*e*) (1877), 2 Q. B. D. 581, at p. 588.
(*f*) [1912] 1 K. B. 270, at p. 286.

" in it one day in a year. On the other hand, a person " who, without having any title takes actual possession " of a house or piece of land, whether by leave of the " owner or against his will, is the occupier of it."

But although this statement of LUSH, J., was approved, and although the judgment of the Court of Appeal in the *Chorley* case was affirmed, by the House of Lords (*g*), that decision itself shows how very little is the " something more " beyond possession which is required to constitute rateable occupation ; or as Lord ATKINSON said (*h*), " how slight a user of land by its " proprietor in possession will be held sufficient to " render him liable to be rated as the beneficial occu- " pant of it." Certain other decisions having the same tendency will be considered below under the head of " User."

Except, possibly, that it seems to give more weight than has always, in more recent cases, been attributed to the element of benefit, the judgment of LUSH, J., in *R.* v. *St. Pancras* remains " the best summary " of the elements which constitute rateable occupation.

Possession does not depend on Title.—The possession which is the primary element in rateable occupation need not be legal. " It is perfectly " immaterial what interest the occupier has in the " lands ; whether he holds as tenant at will, or by any " other tenure. It is not necessary to inquire into the " occupier's title " (*i*) ; in the case where those words were spoken, the person held to be occupier was not shown to have any right at all (*i*). " A tenant at will is, until

(*g*) [1913] A. C. 197. (*h*) At p. 206.

(*i*) *Lord Bute* v. *Grindall* (1786), 1 T. R. 338 ; *per* BULLER, J. But in the Exchequer Chamber he was assumed to have some right, (1793), 2 Hy. Bl. 265.

the will be determined, an occupier of the land " (*k*). Again, in holding that certain persons (whom the Court assumed to be mere licensees) were in rateable occupation, it was said that " if they are *de facto* in exclusive " occupation, it matters not if the law was that [the " owner] had a right to eject them at his pleasure . . ."(*l*). " Whether the occupier has a right to occupy or not is " entirely beside the question " (*m*). Thus, persons allowed to occupy premises as a matter of charity or of grace have been held rateable (*n*). And by a somewhat different application of the same doctrine, a company having no proprietary interest in the soil, but possessing " an easement or incorporal right of such " a character as requires the occupation of land for its " exercise, and confers upon the company a right to " occupy land during its continuance " were held to be rateable occupiers (*o*).

It was said in that case by Lord HERSCHELL, L.C., that " the question whether a person is an occupier or " not within the rating law is a question of fact, and does " not depend upon legal title. The person legally " possessed may not occupy. On the other hand, a " person may be occupier either with or without the " consent of the owner ; " and more succinctly by Lord

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(*k*) *R.* v. *Chelsea Water Works Co.* (1833), 5 B. & Ad. 156 ; *infra*, p. 28 ; *per* Lord DENMAN, C.J., at p. 169.

(*l*) *Kittow* v. *Liskeard Union* (1874), L. R. 10 Q. B. 7 ; *per* BLACKBURN, J., at pp. 13, 14.

(*m*) *Ibid.*, *per* LUSH, J., at p. 15.

(*n*) *R.* v. *Munday* (1801), 1 East, 584, *R.* v. *Green* (1829), 9 B. & C. 203, approved in *Poplar Assessment Committee* v. *Roberts*, [1922] 2 A. C. 93 ; *R.* v. *Ponsonby* (1842), 3 Q. B. 14.

(*o*) *Holywell Union* v. *Halkyn Mines Drainage Co.*, [1895] A. C. 117 ; see *per* Lord DAVEY, at p. 131. The legal position was the same in *R.* v. *Bell* (1798), 7 T. R. 598, *infra*, where a waggon way constructed under a mere way-leave was held rateable.

MACNAGHTEN that "Liability to rates is not a matter "of title" (*p*).

Rateable occupation must be exclusive.—A person who has possession of premises is not a rateable occupier if he cannot exclude the public from going upon them and using them (*q*); nor is he such an occupier, unless he can exclude every other person (*r*).

But there may be exclusive occupation of a particular thing—which is thereby made a rateable hereditament—because no one but the occupier may use that thing in the way in which it is intended to be used, although he does not prevent others from passing over the land on which it stands. Thus, moorings—chains, anchors, and ballast sunk in the bed of the Thames—were held to establish a rateable occupation by the firm who had the sole right of using them by mooring derricks to them for the purpose of coaling ships (*s*). And it is upon this principle that tramways placed in public highways are rateable, for no one but the tramway company (or authority) is entitled to use the rails with flange wheels (*t*). In either case, all the traffic of the public passes over the river or the street; but this fact is immaterial. On a similar principle, a telegraph company is in rateable occupation of its posts and wires, though placed on a railway company's property and

(*p*) *Ibid.*, at pp. 125, 127. The decisions on easements, etc., in connection with public utility undertakings are considered below, p. 28.

(*q*) *Lambeth Overseers* v. *London County Council*, [1897] A. C. 625.

(*r*) *R.* v. *Bell* (1798), 7 T. R. 598, *supra*, p. 22; *Rochdale Canal Co.* v. *Brewster*, [1894] 2 Q. B. 852; and the cases on "Lodger or licensee," *infra*, p. 37.

(*s*) *Cory* v. *Bristow* (1877), 2 App. Cas. 262; but if there is a mere licence to use the moorings, there is no rateable occupation, *Watkins* v. *Milton Overseers* (1868), L. R. 3 Q. B. 350.

(*t*) *Pimlico Tramway Co.* v. *Greenwich* (1873), L. R. 9 Q. B. 9; *New St. Helens Tramways Co.* v. *Prescot Union* (1904), 1 Konstam, 150.

alongside the railway line (*u*); and a telephone company, of its overhead wires affixed to buildings by spikes and brackets, though the buildings belong to and are occupied by other persons; for "it was intended . . . "that the whole profitable user of these things, and "the exclusive right of dealing with them, . . ., should "belong to the company (*x*)." Thus also, in *Holywell Union* v. *Halkyn Mines Drainage Co.* (*y*) the company were held to be rateable for their drainage tunnels, which they alone could use for the main purpose for which they were constructed, although the grantor and his assigns had also the right to use them for the carriage of the minerals.

Possession of the soil essential: Tolls.—In the cases last cited, there was, directly or indirectly, an occupation of part of the soil. This is essential, and the mere possession of an incorporeal hereditament is not rateable (*z*). Thus, tolls are not of themselves rateable, whether they be ferry tolls (*a*), harbour tolls (*b*), lighthouse tolls (*c*), market tolls (not being in the nature of stallage) (*d*), tolls-thorough (that is, tolls

(*u*) *Electric Telegraph Co.* v. *Salford Overseers* (1855), 11 Ex. 181.

(*x*) *Lancs. Telephone Co.* v. *Manchester Overseers* (1884), 14 Q. B. D. 267; see *per* BRETT, M.R., at p. 271.

(*y*) [1895] A. C. 117, *supra*, p. 22; see also p. 36, note (*y*).

(*z*) The rating of tithe and tithe rent charge, and of sporting rights severed from the occupation of the land, is due to specific statutory enactments, *vide supra*, p. 19.

(*a*) *R.* v. *Nicholson* (1810), 12 East, 330; *Williams* v. *Jones*, *ibid.* 346.

(*b*) *Lewis* v. *Swansea Overseers* (1855), 5 E. & B. 508; *Swansea Harbour Trustees* v. *Swansea Union* (1907), 1 Konstam, 250; see also the cases cited in connection with the rateable value of harbours and docks, *infra*, pp. 193–196.

(*c*) *R.* v. *Rebowe* (1772), Caldecot, 155, 387; *R.* v. *Tynemouth* (1810), 12 East, 46; *R.* v. *Coke*, *R.* v. *Fowke* (1826), 5 B. & C. 797, 814, n.

(*d*) *R.* v. *Bell* (1816), 5 M. & S. 221; *Mayor, etc. of London* v. *St. Sepulchre Overseers* (1871), L. R. 7 Q. B. 333, n.; as to the classes of tolls which may be taken into account in rating markets, *vide infra*, pp. 202–206.

paid for the use of a highway) (*e*), or other tolls (*f*) not receivable by reason of an occupation of land. But, on the other hand, if tolls are paid for the use of part of the soil, or if the possession of part of the soil enables the owner or other person in possession to take or earn tolls, then there is a rateable occupation of that part of the soil. "The question is . . . whether the payment "relied on by the rating authority is a payment in "respect of the use of the land which they are rating, "or a payment in respect of something else" (*g*). "It "is very clear in law that tolls are not *per se* the subject "of a rate. It is equally clear that, when parties "occupy land, they are rateable for the value of that "land, and that tolls though not rateable, may be "considered as enhancing the value . . . whenever "it appears that the occupation of the land is so con-"nected with them that it can be said that the tolls and "rates are levied on account of the occupation of the "land; or, perhaps, . . . could not be received without "an occupation of land (*h*). . . . In the present case, . . . "I do not think the receipt of the tolls is so connected "with the occupation . . . that it can fairly be said that "the rate on it should be enhanced on account of that; "and consequently, I think, as . . . the piers are "worth nothing unless the profits can be added," the Harbour Commissioners are not rateable (*h*).

(*e*) *R.* v. *Eyre* (1810), 12 East, 416; *R.* v. *Snowdon* (1833), 4 B. & Ad. 713: the highways in question were public bridges.

(*f*) *R.* v. *Aire and Calder Navigation* (*The Hunslet Mills*) (1832), 3 B. & Ad. 533.

(*g*) *Blyth Harbour Commissioners* v. *Tynemouth Union*, [1894] 2 Q. B. 675, *per* Lord ESHER, M.R., at p. 678.

(*h*) *New Shoreham Harbour Commissioners* v. *Lancing Overseers* (1870), L. R. 5 Q. B. 489, *per* BLACKBURN, J., at pp. 496, 499. The earlier of the passages cited from the judgment is cited by A. L. SMITH,

It is upon the answer to the question stated by ESHER, M.R., and explained by BLACKBURN, J., in the passages cited, that the rateability of public utility undertakings earning tolls depends—and at the present day the only hereditaments of that class which escape rateability are certain parts of markets, of inland navigations, and of harbour undertakings. As the matters which may still give rise to debate apply to *parts* of undertakings and as there is no longer any doubt that such undertakings are, in general, rateable (*i*), these questions are of more practical importance with reference to the ascertainment of rateable value than to the actual establishment of rateable occupation, and it will be more useful to consider the decisions in that connection (*k*). In this place, it may suffice to refer to the cases which decide that the occupation of the landing-stages of a ferry (*l*), of docks and quays (*m*), of toll-bridges (*n*), of canals (*o*), of inland navigations

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L.J., in the *Blyth Harbour* case, [1894] 2 Q. B. at p. 683; the later shows the relevance of the earlier to the question of rateable occupation.

(*i*) See also *Mersey Docks and Harbour Board* v. *Cameron* (1865), 11 H. L. C. 443; *London County Council* v. *Erith Overseers*, [1893] A. C. 562, *infra*, p. 33.

(*k*) *Vide infra*, Chap. X.

(*l*) *R.* v. *North and South Shields Ferry Co.* (1852), 1 E. & B. 140.

(*m*) *R.* v. *Durham* (*Earl*) (1859), 5 Jurist (N. S.) 1306; *R.* v. *Hull Dock Co.* (1845), 7 Q. B. 2; *Ipswich Dock Commrs.* v. *St. Peter, Ipswich, Overseers* (1866), 7 B. & S. 310; *Faversham Navigation Commissioners* v. *Faversham Union* (1867), 31 J. P. 822; *R.* v. *Berwick Assessment Committee* (1885), 16 Q. B. D. 493; *Swansea Harbour Trustees* v. *Swansea Union*, *supra*.

(*n*) *R.* v. *Barnes* (*Inhabitants*) (1830), 1 B. & Ad. 113; *R.* v. *Salisbury* (*Marquis*) (1838), 8 Ad. & E. 716; *R.* v. *Blackfriars Bridge Co.* (1839), 9 Ad. & E. 828; cf. *Paynter* v. *The Queen* (1847), 10 Q. B. 908, *infra*, p. 45; *R.* v. *Hammersmith Bridge Co.* (1849), 15 Q. B. 369; *R.* v. *Bedminster Union* (1876); 45 L. J. M. C. 117; *Hare* v. *Putney Overseers* (1881), 7 Q. B. D. 223; *Percy* v. *Hall* (1903), 67 J. P. 293 (a swingbridge).

(*o*) *R.* v. *Macdonald* (1810), 12 East, 324; *R.* v. *Palmer* (1823), 1

(so far as they are owned by the undertakers) (*p*), of market-buildings (*q*) and market places (*r*), is rateable for the reason above indicated, namely that "real "and substantial property, . . . as yielding profit by "means of the tolls," is the proper subject of rating within the Act of Elizabeth (*s*).

Easements which entail occupation.—It has been seen that the possession of an easement or other incorporeal right may be such as to acquire the occupation of land for its exercise, and may therefore result in a rateable occupation (*t*). The decisions in which it has been held that an easement is of this character, and those

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B. & C. 546 (where a river made navigable was dealt with as a canal); R. *v. Lower Mitton* (*Inhabitants*) (1829), 9 B. & C. 810; *R.* v. *Kingswinford* (1827), 7 B. & C. 236

(*p*) The parts so vested usually comprise locks, weirs, dams, and cuts; and sometimes but not always in the towing-paths; and they generally exclude the natural river-bed, *vide infra*, p. 29; *R.* v. *Cardington* (*Inhabitants*) (1777), 2 Cowper, 581; *R.* v. *Aire and Calder Navigation Co.* (1788), 2 T. R. 660; *R.* v. *London* (*Mayor, etc. of*) (1790), 4 T. R. 21; *Bruce* v. *Willis* (1840), 11 Ad. & E. 463. There is no rateable occupation of such portions of a navigable river as are not vested in the undertakers; *R.* v. *River Weaver Navigation Co.* (1827), 7 B. & C. 70, n.; *R.* v. *Mersey and Irwell Navigation Co.* (1829), 9 B. & C. 95; *R.* v. *Thomas*, *ibid.* 114 *R.* v. *Aire and Calder Navigation Co.*, *ibid.* 820; *Doncaster Union* v. *M. S. & L. Rail. Co.* (1894), 71 L. T. 585, *vide infra*, p. 29.

(*q*) *Percy* v. *Ashford Union* (1876), 34 L. T. 579; *Bedford* (*Duke*) v. *St. Paul, Covent Garden Overseers* (1881), 51 L. J. M. C. 41; *London Corporation* v. *Greenwich Union* (1883), 48 L. T. 437; *Horner* v. *Stepney Assessment Committee* (1908), 2 Konstam, 743; but see the cases cited, *supra*, p. 24, *note* (*d*).

(*r*) *R.* v. *St. Peter Mancroft Overseers* (1828), 6 L. J. (O. S.) M. C. 69; *Roberts* v. *Aylesbury Overseers* (1853), 1 E. & B. 423; *R.* v. *Barnard Castle* (*Inhabitants*) (1863), 27 J. P. 534; *Williams* v. *Wednesbury Overseers* (1890), Ryde (1886–90), 327.

(*s*) See *per* Lord ELLENBOROUGH, C.J., in *R.* v. *Macdonald* (*supra*), 12 East, at p. 329.

(*t*) *Holywell Union* v. *Halkyn Mines Drainage Co.*, [1895] A. C. 117, *supra*, p. 24; and see below.

in which a mere easement has been held not to entail rateability, are separated by a somewhat fine distinction, resting on the necessity of possession of a portion of the soil for establishing rateability (*u*). On the one hand, there is no doubt that water authorities and companies are rateable, not merely for reservoirs (*x*), but also for their mains and pipes (*y*), though as to either of such constructions, they may have only a licence or easement to collect the water on, or to carry it under, the lands of other persons (including Crown lands (*z*) and public highways). The same observation applies to the works mains and pipes of gas companies (*a*). Electricity companies and authorities, power companies and so on, have come into existence since the above principle was settled, and its application to them has not been doubted. It applies also to such hereditaments as a watercourse used for the purpose of bringing water to a lead mine (*b*), or a staging erected over a foreshore for betting and entertainment purposes (*c*), both of which have been held to be in rateable occupation.

(*u*) See the preceding paragraphs.

(*x*) *R.* v. *Bath Corporation* (1811), 14 East, 609; *R.* v. *Chelsea Waterworks Co.* (1833), 5 B. & Ad. 156.

(*y*) *R.* v. *Rochdale Waterworks Co.* (1813), 1 M. & S. 634; *R.* v. *Chelsea Waterworks Co., supra*; *R.* v. *West Middlesex Waterworks Co.* (1859), 1 E. & E. 716.

(*z*) In *R.* v. *Chelsea Waterworks Co., supra*, there was a revocable licence by the Crown; true, a somewhat similar privilege was held in *Mildmay* v. *Wimbledon Overseers* (1872), 41 L. J. M. C. 133, not to entail a rateable occupation; but this decision would hardly be followed to-day.

(*a*) *R.* v. *Brighton Gas Light and Coke Co.* (1826), 5 B. & C. 466; *R.* v. *Stevens* (1865), 12 L. T. 491, where, again there was a revocable licence by the Crown.

(*b*) *Talargoch Mining Co.* v. *St. Asaph Union* (1868), L. R. 3 Q. B. 478.

(*c*) *Margate Corporation* v. *Pettman* (1912), 106 L. T. 104.

The cases considered above are cases which decided simply the question of rateability or non-rateability ; other cases, where the question arose whether one of two persons was a rateable occupier or a mere licensee are separately discussed below (*d*).

On the other hand (again apart from the question last indicated), the possession of an easement or licence may not carry with it an occupation of land, and there may therefore be no rateable occupation. Thus, a way-leave which is nothing but a right of passage, exercised without the construction of a waggon-way by the licensee, is " a mere easement " and not rateable (*e*). This decision well illustrates the positive and the negative application of the principle, when contrasted with that in a slightly later case, where the grantee of a way-leave of a similar nature who for its enjoyment had constructed a waggon-way, was held to be in rateable occupation of the way (*f*). A similar contrast is to be found in the cases already cited (*g*) as to the rating of inland navigations ; the natural bed of a navigable river is not in the rateable occupation of the undertakers when they have a mere easement over it, but they are rateable for locks, cuts and other works constructed upon soil vested in them. The early decisions were followed, and their effect is summarised in the case of the *Don Navigation* (*h*), where the railway company who were the navigation authority, though admittedly in occupation of the artificial cuts, etc., were held not to be rateable for the natural bed, or even

(*d*) *Infra*, pp. 35–38.

(*e*) *R.* v. *Jolliffe* (1787), 2 T. R. 90.

(*f*) *R.* v. *Bell* (1798), 7 T. R. 598, *supra*, p. 22.

(*g*) *Supra*, p. 27.

(*h*) *Doncaster Union* v. *M. S. & L. Railway Co.* (1894), 71 L. T. 585.

for the towing-path by its side, which were not vested in them; although they dredged the bed, supported the bank, and pitched the surface of the towing-path, they were not found to have originally constructed the latter; and they were held (by the House of Lords) to have nothing more than an easement in the bed or the path. Unless, indeed, there be an essential difference between original construction and such works as dredging and pitching, it is not easy to lay down the line of distinction between that case and the *Halkyn* case (*i*), decided by the House later in the same year, where the drainage company were held to be in rateable occupation of a tunnel and works constructed by them for the enjoyment of their easement; the rights of the riparian owners to put their cattle across the towing-path in the *Doncaster* case, were not greater than the rights reserved by the grantor in the *Halkyn* case (*k*). Be that as it may, since the *Halkyn* case, it is difficult to find a new instance of "a mere easement" which does not entail a rateable occupation *by some person* of that portion of the soil over which it is exercised; though questions may still arise whether the grantor or the licensee is the rateable occupier.

Attempts have been made to escape from rating in respect of surface excavations for minerals (*l*), and of a cost-book mine (*m*), on the ground that these were

(*i*) *Holywell Union* v. *Halkyn Mines Drainage Co.*, [1895] A. C. 117, *supra*, p. 24.

(*k*) Lord DAVEY is the only one of the Lords who in the *Halkyn* case, [1895] A. C., at p. 132, mentions the *Doncaster* case (to the decision of which he was not a party), as showing that ownership may in some cases be material; but goes on to say that the "real question is . . . "whether the company is *de facto* in occupation of some portion of the "soil."

(*l*) *Roads* v. *Trumpington Overseers* (1870), L. R. 6 Q. B. 56.

(*m*) *Kittow* v. *Liskeard Union* (1874), L. R. 10 Q. B. 7.

carried on under a mere licence, and not under a demise ; but in both cases there was held to be a rateable occupation. Where, however, a lease or licence to dig is not in fact exercised, its mere existence does not entail a rateable occupation (*n*). And a licence to dig for minerals, which does not prevent the owner from giving other persons a similar licence, is not enough to make the licensee a rateable occupier (*o*).

Commons.—Like a right to take tolls, or an easement, a right of common is not of itself rateable (*p*), but it may be so connected with the possession of a portion of the soil, as to give rise to a rateable occupation (*q*). In an early case, this occupation was held to lie with persons who were allowed by the corporation of the borough (the land being vested in the corporation) to stock the whole common for the year, on making payments to the remaining commoners who did not stock (*r*). But it is difficult to reconcile this with the subsequent cases where it was held that the trustees in whom the aftermath of the land was vested, and who let it out at so much per head, were themselves rateable (*s*) ; or with two cases in which borough corporations in whom the land was vested were held rateable ; in both these cases the corporation allowed certain burgesses or freemen to stock the land upon payment, which in one case (*t*) was distributed among poorer burgesses, and in the other (*u*) was devoted to the maintenance

(*n*) *R.* v. *Fayle* (1856), 4 W. R. 460.

(*o*) *R.* v. *Trent and Mersey Navigation Co.* (1825), 4 B. & C. 57.

(*p*) *R.* v. *Churchill* (1825), 4 B. & C. 750 ; *R.* v. *Alnwick* (*Chamberlains, etc.*) (1839), 9 Ad. & E. 444.

(*q*) *R.* v. *Aberavon* (*Inhabitants*) (1804), 5 East, 453.

(*r*) *R.* v. *Watson* (1804), 5 East, 480.

(*s*) *R.* v. *Tewkesbury* (*Trustees*) (1810), 13 East, 155.

(*t*) *R.* v. *Sudbury* (*Mayor, etc.*) (1823), 1 B. & C. 389.

(*u*) *R.* v. *York* (*Mayor, etc.*) (1837), 6 Ad. & E. 419.

of the existing pasture land and the purchase of more. Indeed in *R.* v. *Sudbury*, the Judges almost went so far as to overrule *R.* v. *Watson*; and if the decisions had rested there, it might have been said generally that common land is in the rateable occupation of the body in whom it is vested, and who regulate the stocking of it. But in 1867 (*x*), it was held that a borough corporation in whom a common was vested, and who took payment from the persons who stocked it, were not in rateable occupation, because since the passing of the Municipal Corporations Act, 1835 (*y*), the common was no longer held by the corporation as trustees for the freemen, but the rights of the freemen were rights adverse to the corporation (or *profits à pendre*), and exhausted the whole value of the land.

The result of the decisions, as they stand, seems to be that if the body in whom the common land is vested receives any payment for its use, it is in rateable occupation; but that if that body does not receive any such payment, nor itself make any use of the land, there is no rateable occupation in any one. But it seems likely that, if a question of this kind were to come before the Courts at the present day, very slight evidence of user (*z*) by the owner of the land would be held sufficient to create a rateable occupation in him.

Occupation for public purposes is rateable.—The Crown is exempt from poor rate and therefore from general and special rates, and this exemption extends to the occupation of property by or on behalf of the

(*x*) *Lincoln* (*Mayor, etc.*) v. *Holmes Common Overseers* (1867), L. R. 2 Q. B. 482.

(*y*) 5 & 6 Will. 4, c. 76.

(*z*) See the cases cited in connection with "User," *infra*, p. 48. But see, on the other hand, the cases about public parks, cited *infra*, p. 35.

Crown for the purpose of the general government of the country (*a*). But an occupation by any other person or body (otherwise than as an agent or servant of the Crown), for any public purpose which is not a purpose of the general government, is a rateable occupation (*b*). It is immaterial that the occupation is not carried on for profit (*c*). Thus, a county council is rateable for those buildings, or those parts of its buildings, which are occupied by it for the purposes of the county administration (*d*); a county council or other sewerage authority, for sewers and sewerage works of every kind (*e*) even though the sewers are underground, and though no contribution from any other body or person is received for their use (*f*). There is a special provision exempting non-provided schools (*g*); but a provided school is the subject of rateable occupation (*h*), as is an industrial school, though supported in part by a Government grant (*i*), and a reformatory school (*k*),

(*a*) The Crown exemption and the hereditaments to which it extend are considered, *infra*, pp. 81–84.

(*b*) *Mersey Docks* v. *Cameron, Jones* v. *Mersey Docks* (1865), 11 H. L. C. 443; *Coomber* v. *Berks JJ.* (1883), 9 App. Cas. 61.

(*c*) *Mersey Docks* v. *Cameron, Jones* v. *Mersey Docks, supra.*

(*d*) *Middlesex County Council* v. *St. George's Union*, [1897] 1 Q. B. 64; *Worcester County Council* v. *Worcester Union, ibid.*, 480.

(*e*) *London County Council* v. *Erith Churchwardens*, [1893] A. C. 562; these include sewage farms and their appurtenances, *Burton-upon-Trent (Mayor, etc.)* v. *Burton-upon-Trent Union* (1889), 24 Q. B. D. 197; *Leicester (Mayor, etc.)* v. *Beaumont Leys Overseers* (1894), Ryde and Konstam, 140.

(*f*) *West Kent Main Sewerage Board* v. *Dartford Union*, [1911] A. C. 171.

(*g*) *Vide infra*, pp. 85, 86.

(*h*) *West Bromwich School Board* v. *West Bromwich Overseers* (1884), 13 Q. B. D. 929; *R.* v. *School Board for London* (1886), 17 Q. B. D. 738, *infra*, p. 129.

(*i*) *R.* v. *West Derby Overseers* (1875), L. R. 10 Q. B. 283; *Durham County Council* v. *Chester-le-Street Union*, [1891] 1 Q. B. 330.

(*k*) *Tunnicliffe* v. *Birkdale Overseers* (1888), 20 Q. B. D. 450. The

and a county lunatic asylum (*l*). Guardians of the poor are rateable for a workhouse (*m*).

A harbour authority, in spite of its undertaking being carried on for public purposes and of its being unable to distribute a profit, is rateable (*n*), in respect of those parts of its undertaking of which it has possession (*o*). So are a University in respect of its buildings (*p*), the governing body of a hospital (*q*), and the trustees of a museum (*r*).

On the other hand, there is no rateable occupation of a bridge which is open to the public free of tolls (*s*), any more than there is of a road which is a public highway ; in both cases, although the bridge or the road is vested in the bridge or highway authority, they exercise control merely for purposes of traffic regulation or conservancy, and in truth they are not in possession otherwise than as custodians or trustees to hold and

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three cases last cited were decided on the ground that the purposes for which the schools were carried on were not purposes of the general government of the county (see above). It may be doubted whether this view would be taken at the present day, after the repeal and replacement by Part IV of the Children Act, 1908 (8 Edw. 7, c. 67) of the Reformatory Schools Act, 1866 (29 & 30 Vict. c. 117), the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118) and the Amendment Act of 1872 (35 & 36 Vict. c. 21).

(*l*) Cf. *Bray* v. *Lancashire, JJ.* (1889), 22 Q. B. D. 484, a case which arose upon Schedule A income tax.

(*m*) *Bristol Governors of the Poor* v. *Wait* (1836), 5 Ad. & E. 1 ; *R.* v. *Wallingford Guardians* (1839), 10 Ad. & E. 259.

(*n*) *Mersey Docks* v. *Cameron, Jones* v. *Mersey Docks* (1865), 11 H. L. C. 443, *supra.*

(*o*) *Vide supra*, p. 26.

(*p*) *Greig* v. *University of Edinburgh* (1868), L. R. 1 Sc. & D. 348.

(*q*) *St. Thomas's Hospital Governors* v. *Stratton* (1875), L. R. 7 H. L. 477.

(*r*) *Soane's Museum Trustees* v. *St. Giles Overseers* (1900), Ryde and Konstam, 235.

(*s*) *Hare* v. *Putney Overseers* (1881), 7 Q. B. D. 223 : as to toll-bridges, *vide supra*, p. 26, note (*n*).

manage the property for the use of the public. On this principle, a county council (*t*) and a city corporation (*u*) are not rateable for a public park, though the expenses of upkeep are somewhat reduced by sundry receipts earned in parts of the park and, though in the case of the urban authorities, there is power to close the park for a limited number of days in the year.

Conflict of possible occupiers.—There is a large class of cases in which the question has arisen which of two persons is the occupier of the property concerned, which is often a part of a larger whole. This question must of course be decided upon the principles already indicated which regulate the distinction between an easement or licence which confers rateable occupation, and one which does not. Accordingly, the judgment of the House of Lords in the *Halkyn* case (*x*) is the leading authority upon this subject; and one of the points actually decided in that case was that the mine drainage company who were given by deed certain easements and exclusive rights, and had constructed tunnels for the exercise of the rights thus conferred upon them, were in occupation of those tunnels, notwithstanding that the grantor reserved to himself and his assigns the right of using those tunnels for working the mines and removing minerals. The rights of the company were held to be paramount, and those of the grantor to be subordinate; and the following passage states comprehensively the principle

(*t*) *Lambeth Overseers* v. *London County Council*, [1897] A. C. 625, *supra*, p. 23; see *per* Lord HERSCHELL, at p. 632. The other ground on which this case was decided, the absence of benefit to the council, is considered, *infra*, pp. 48, 49.

(*u*) *Manchester* (*Mayor, etc.*) v. *Chorlton Union* (1899), 15 T. L. R. 327; *Liverpool* (*Mayor, etc.*) v. *West Derby Union*, [1908] 2 K. B. 647.

(*x*) [1895] A. C. 117, *supra*, p. 30.

applicable to all cases of this class :—" Exclusive " occupation does not mean that nobody else has any " rights in the premises. The familiar case of land- " lord or lodger is an illustration. The cases show that " if a person has only a subordinate occupation subject " at all times to the control and regulation of another, " then that person has not occupation in the strict " sense for the purposes of rating, but that the rate- " able occupation remains in the other, who has the " right of regulation and control " (*y*).

This case, together with most of the other cases cited under this and the two following heads, shows that the actual language of the deed under which the person it is sought to rate holds or enjoys is not conclusive ; such language is, it is true, among the circumstances to be considered when looking at the whole of the transaction in order to ascertain its substance ; but the use of words like " landlord," " tenant," " rent," " occupy," and the insertion of provision for re-entry or for quiet enjoyment, do not necessarily establish a rateable occupation (*z*) ; again, there may be a rateable occupation by the grantee, though no such language is used (*a*). On the other hand, in the latest case of importance decided upon this matter, great stress was laid upon the presence of the word " demise " in the grant, as *primâ facie* importing an intention to give exclusive occupation to the tenant (*b*).

Lodgings and Flats.—Where a landlord lets out

(*y*) *Per* Lord DAVEY, at pp. 133–134.

(*z*) See especially *Allan* v. *Liverpool Overseers* (1874), L. R. 9 Q. B. 180 ; *Rochdale Canal Co.* v. *Brewster*, [1894] 2 Q. B. 852, *infra*, p. 39.

(*a*) See especially *Holywell Union* v. *Halkyn Mines Drainage Co.*, [1895] A. C. 117, *supra*.

(*b*) *Young* v. *Liverpool Assessment Committee*, [1911] 2 K. B. 195, *infra*, p. 37.

parts of a house, or even where he lets it all out in separate parts, but retains control of the whole with a right to turn out trespassers from any part of the house, the " inmates " are merely in the position of lodgers, and the landlord is in rateable occupation (*c*); thus, where a part of a house was let to the Inland Revenue Department for offices, but the landlord retained the legal possession of that part and supplied fire and light and attendance by a servant of his own, he was held to be in rateable occupation of the whole (*d*). But though " lodgings " are not separately rateable, " flats " are so: the occupier of a flat is not a mere " inmate," but a rateable occupier, because the landlord, though he may retain the possession and control of the passages, staircases, and lifts, does not reserve to himself the right to go into the separate flats or to turn trespassers out of them (*e*), and it is not necessary (if the conditions just stated are fulfilled), that there should be an absolute structural separation between the flats; the tenants of them may even enjoy in common other parts of the premises besides the entrance and the staircases, such as a yard, sanitary conveniences, and so on (*f*).

It will be gathered from the decisions cited that

(*c*) *Bradley* v. *Baylis* (1881), 8 Q. B. D. 195; *Kent* v. *Fittall*, [1906] 1 K B. 60; these are decisions on the qualification and registration of electors, but the judgments are generally recognised as applicable to the poor rate also.

(*d*) *Smith* v. *St. Michael Cambridge Overseers* (1860), 3 E. & E. 383, *vide infra*, p. 83.

(*e*) *R.* v. *St. George's Union* (1871), L. R. 7 Q. B. 90; in modern conditions, the absence of control of the outer door by the landlord, to which attention was directed in the judgments in that case, is no longer a salient feature, cf. *Whitehead* v. *Westminster Assessment Committee* (1908), 1 Konstam, 77, a decision of London Quarter Sessions; *Young* v. *Liverpool Assessment Committee*, [1911] 2 K. B. 195, *infra*, p. 39; *Curzon* v. *Westminster Corporation* (1916), 80 J. P. 468, *infra*, p. 41.

(*f*) *Allchurch* v. *Hendon Union*, [1891] 2 Q. B. 436.

the same principles apply whether the premises are used for residence, or as offices, etc., for business purposes.

The application of these principles may, however, be somewhat modified (*g*) in a limited class of cases at the discretion of the rating authority or assessment committee : if a building was originally constructed or has been adapted to serve as a single dwelling-house, or to serve in part as a single dwelling-house while the remainder was to serve for business or other purposes, and is now so occupied in parts that there would (according to the general principles above stated) be a separate rateable occupation of each part, the whole building may nevertheless be treated as being in the single rateable occupation of the person who receives the rent payable in respect of (all) the parts. The section is somewhat obscure ; but it seems clear that it will not apply to a building originally constructed to be let out in flats, even such flats as those in *Allchurch* v. *Hendon Union* (*h*), where some parts of the premises were enjoyed in common by the lessees of the separate flats ; or to a building where the person who receives the rent of the remaining parts (which are separately occupied) retains a part in his own rateable occupation (*i*), or where more than one person receives a rent for different parts. In short, its chief application will be to a case where the whole of a dwelling-house previously occupied by a single family, is now in the separate occupation of several persons, none of whom is the owner or tenant of the whole house.

(*g*) Rating & Valuation Act, 1925, s. 23, see Appendix.

(*h* *Supra*, p. 37.

(*i*) Cf. *Bradley* v. *Baylis*, *supra* ; and *Kensington Borough Council* v. *Allen*, [1926] 1 K. B. 576.

Portions of Public Utility and other undertakings.—The question of conflicting occupations has often been debated, and must often arise, in connection with portions of the property of large undertakings which are appropriated to the use of persons other than the undertakers. This aspect of the problem is very clearly illustrated by certain cases, differently decided, with regard to portions of the property of the *Mersey Docks and Harbour Board*. The Board appropriated berths, sheds, and quay-spaces to shipping companies (*k*) and to a canal company (*l*), and it was sought to rate the former for the sheds and quay-spaces, and the canal company for the water-berth also ; in all these three cases it was held that the companies could not be rated, for they were in the position of lodgers (*m*) ; the Board retained the control of the whole of the sheds and quay-spaces, which were traversed by persons going to and from ships moored in other berths than those appropriated to the companies, and were constantly entered by the servants of the Board for the purpose of examining the goods warehoused, and for any other purposes connected with their duties to the Board ; in the *Rochdale Canal* case, the company were obliged by their agreement to allow such access and to conform to all the bye-laws and regulations of the Board.

In sharp contrast to the above is the case (*n*) where

(*k*) *Allan* v. *Liverpool Overseers, Inman* v. *Kirkdale Overseers* (1874), L. R. 9 Q. B. 180.

(*l*) *Rochdale Canal Co.* v. *Brewster*, [1894] 2 Q. B. 852 ; Ryde and Konstam, 143 ; as to the effect of the language of the grant in these three cases, *vide supra*, p. 36.

(*m*) L. R. 9 Q. B., *per* BLACKBURN, J., at p. 192 ; *vide supra*, p. 37.

(*n*) *Young* v. *Liverpool Assessment Committee*, [1911] 2 Q. B. 195 ; as to the stress laid on the use of the word " demised " in this case, *vide supra*, p. 36.

the Mersey Docks Board had " demised " vaults and a section of the quay-floor of the warehouses over the vaults, to a firm of merchants for the storage, blending, etc., of wines and spirits in bond. The sections of vaults and quay-floor thus let were enclosed by walls ; the Board's servants had no such unlimited right of access as in the case last cited ; and the nature of the business of a bonded warehouse is such as to involve exclusive occupation. The Board of course had control of the outer gates of the docks ; and they had certain rights of entry on the demised premises at all reasonable times for the purpose of the general working of the docks estate—but this was held to be of no more importance than a covenant to allow entry in order to see whether the premises are held in repair ; and the merchants were held to be in rateable occupation.

It seems probable that the Courts will incline in future cases of the same kind to follow the decision in the last case cited :—that is, to hold, where the nature of the business carried on upon the premises concerned is such as to require an exclusive occupation, and the bargain between the parties is not inconsistent with that intention, that the person who uses the premises for that business is the rateable occupier.

Though the cases above cited fall on either side of a fairly definite line, in other cases reliance has been placed on somewhat slender circumstances in order to establish the retention of control by the owners of the undertaking, and their consequent rateable occupation of the whole ; and the application of these latter decisions cannot be relied upon so securely as it has been in the past. Such cases are those of stables used by

coal merchants at a railway station (*o*), and bookstalls at a railway station (*p*), where there was held to be no separate rateable occupation of stables or bookstalls, largely on the ground that the railway company could (upon notice given) change the stable or the site appropriated to the users; and of the refreshment rooms, kitchen and cellarage at an exhibition where the licensee was held not to be a rateable occupier (*q*). The modern tendency of the Courts is shown by the fact that the decision in the case of the exhibition was not followed in that of the bars, wine-cellars, etc., of a theatre, which had been reserved to the landlord upon a demise of the theatre; the lessee was held not to be in rateable occupation of the theatre as a whole, although the lease gave him, and he in fact exercised, an absolute control of the outer doors, and opened or closed the theatre as he saw fit (*r*).

On the other hand, a cemetery company are in rateable occupation of the whole cemetery (*s*), including plots and vaults in which they have parted with the exclusive rights of sepulture, and the contention that the grantees and not the company, are in occupation of these portions, which was overruled in the cases cited, is not likely to prevail. A tenant of a sewage

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(*o*) *L. & N. W. Rail. Co.* v. *Buckmaster* (1874), L. R. 10 Q. B. 70, 444; see also *London and Blackwall Rail. Co.* v. *All Saints, Poplar Churchwardens* (1867), 31 J. P. 102.

(*p*) *Smith* v. *Lambeth Assessment Committee* (1882), 10 Q. B. D. 327.

(*q*) *R.* v. *Morrish* (1863), 32 L. J. M. C. 245.

(*r*) *Curzon* v. *Westminster Corporation* (1916), 80 J. P. 468; cf. *R.* v. *St. Martins-in-the-Fields* (1842), 3 Q. B. 204, where the lessee of a box in a theatre for a term of years was held rateable; curiously enough, this decision was expressly approved in *R.* v. *Morrish, supra.*

(*s*) *R.* v. *St. Mary Abbotts* (*Inhabitants*) (1840), 12 Ad. & El. 824; *R.* v. *Abney Park Cemetery Co.* (1873), L. R. 8 Q. B. 515; cf. also *Winstanley* v. *North Manchester Overseers*, [1910] A. C. 7, *infra*, p. 54.

farm is in occupation of the sewage carriers on the farm, used by the sanitary authority who are his lessors (*t*).

There have been several decisions as to the rateable occupation of electric equipment and of gas and water mains: certain telegraph wires provided and owned by the Postmaster-General for the exclusive use of a cable company were held not to be in the rateable occupation of the company, largely (it would seem) on the ground that the Postmaster-General might appropriate other wires to their use if he saw fit; it may be doubted whether this decision would be followed at the present day (*u*). The same observation may be made upon a case where a corporation supplied a neighbouring local authority with gas through a main which was exclusively used for that purpose, and could be used for no other; the main had been provided and was owned and repaired by the authority who received the supply, and the supplying corporation were held not to be in rateable occupation (*x*). That ownership cannot be the essential consideration in cases like the above is shown by the subsequent decision of the House of Lords in the *Halkyn* case (*y*). Yet it was little more than the fact of ownership, and the liability for repairs, which distinguished the *Ormskirk* case from one in which the Liverpool Corporation had (by arrangement with a district council) constructed a main to supply that

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(*t*) *Stourbridge Main Drainage Board* v. *Seisdon Union* (1902), 66 J. P. 372; see also *Davies* v. *Seisdon Union*, [1908] A. C. 315, *infra*, p. 125.

(*u*) *Paris and New York Telegraph Co.* v. *Penzance Union* (1884), 12 Q. B. D. 552; Lord COLERIDGE, C.J., inclined to the opposite conclusion, though he did not dissent.

(*x*) *Southport* (*Mayor, etc.*) v. *Ormskirk Union*, [1893] 2 Q. B. 468, [1894] 1 Q. B. 196.

(*y*) [1895] A. C. 117, *supra*, pp. 30, 35.

authority with water, and used the main in fact for that purpose only (though they had a right to supply private persons, which was not exercised and was considered immaterial); the corporation maintained the pipe, in return for an annual payment by the council, calculated on the cost of construction. In this case, the contest was directly between the district council and the corporation, and the latter were held to be in rateable occupation (*z*). Upon very similar facts, where a corporation had constructed cables and other equipment for supplying electricity to a tramway company (an annual payment, calculated as above, being made by the company, in addition to royalties for the power supplied), but power was also supplied to certain colliery companies, the corporation and not the company were held to be in rateable occupation (*a*). Each case that arises will of course be decided in view of the whole of the circumstances; but the decisions last cited seem on the whole to afford a safer guide to the cases likely to arise in the future than those in the *Paris and New York* or the *Ormskirk* cases. The *St. Helen's* and *Wallasey* cases show an inclination to hold that the person who enjoys the use, and not the person who merely allows it, is in rateable occupation; and this tendency is in accord with modern views.

Questions of a somewhat similar nature have arisen upon arrangements between railway companies as to the use of lines and stations. Where an owning com-

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(*z*) *Liverpool (Mayor, etc.)* v. *Wallasey U.D.C.* (1905), 2 Konstam, 390; it is assumed in the text that the Corporation were the owners, but it should be noted that the contrary was argued; the judgment, however, does not proceed upon this ground, or even refer to it.

(*a*) *New St. Helens Tramways Co.* v. *Prescot Union* (1904), 1 Konstam, 150.

pany parts with all its rights of possession and management, except that of receiving a rent, to a joint committee or to a single company, there can be little doubt that the latter is in rateable occupation (*b*). But where the owning company retains some control of the management and remains under the obligation to repair, that company, and not the working company, has been held to be the occupier (*c*) ; and a joint station has been held to be occupied solely by the owning company, and not jointly with the other company enjoying a joint use (*d*). These decisions may one day come to be reconsidered in accord with the tendency above indicated. But the decision that a tramway constructed by a harbour company upon their quay for the use of a railway company, and worked by the railway company, was in the rateable occupation of the railway company, although they were obliged to have regard to the instructions of the harbour master with regard to the berthing, loading and unloading of ships alongside the quay, and the harbour company reserved the right to land goods on the tramway (*d*), is in harmony with the modern decisions in *Holywell Union* v. *Halkyn Mines Drainage Co.*, *Young and Co.* v. *Liverpool Assessment Committee*, and the *Wallasey* and *St. Helen's* cases (*e*).

Joint occupiers.—The point is of little importance nowadays ; but it is well settled that a number of "shareholders," or partners, may be in joint occupa-

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(*b*) *N. & S. W. Junction Rail. Co.* v. *Brentford Union* (1887), 18 Q. B. D. 740 ; the decision of the Q. B. D. on the question of occupation was not challenged.

(*c*) *Leeds, Bradford and Halifax Rail. Co.* v. *Armley Overseers* (1861), 25 J. P. 711 ; *R.* v. *Lord Sherard* (1863), 33 L. J. M. C. 5 ; *Midland Rail. Co.* v. *Badgworth* (1864), 34 L. J. M. C. 25.

(*d*) *Sutton Harbour Co.* v. *Plymouth Guardians* (1890), 55 J. P. 232.

(*e*) *Supra*, pp. 35, 39, 43.

tion of a single hereditament, such as a toll-bridge (*f*) just as the partners in a firm may be joint occupiers of their offices and works. It is sometimes found advisable (in such cases as those dealt with in connection with the conflict of possible occupiers (*g*)), where there is insufficient evidence to show which of two persons is the rateable occupier, to enter both in the rate as joint occupiers (*h*).

Occupation by a servant.—A person may be in rateable occupation through a servant of his; and in cases of dwelling-houses (some of them used in part for purposes of business) the question has often arisen whether the employer or the servant is the occupier for purposes of rating. "Where the occupation is "necessary for the performance of services and the "occupier is required to reside in the house in order "to perform those services, the occupation being "strictly ancillary to the performance of the duties "which the occupier has to perform, the occupation "is that of a servant (*i*)," and therefore the employer is rateable. Instances of cases where the servant is not himself a rateable occupier are to be found in those of a matron of a children's home (*k*), of a lighthouse keeper (*l*), of the librarian and the porter of a scientific society (*m*), of caretakers of houses to be let (*n*), as

(*f*) *R.* v. *Paynter* (1845), 7 Q. B. 255; 10 Q. B. 908, *infra*, p. 296; proceedings for recovery may be carried on against any of the persons jointly rated. See also the case of a cost-book mine, *Kittow* v. *Liskeard Union* (1874), L. R. 10 Q. B. 7, *supra*, p. 30.

(*g*) *Supra*, p. 35. (*h*) See note (*f*)

(*i*) *Smith* v. *Seghill Overseers*, *infra*, (1875) L. R. 10 Q. B. 422, *per* MELLOR, J., at p. 428.

(*k*) *R.* v. *Field* (1794), 5 T. R. 587.

(*l*) *R.* v. *Tynemouth* (1810), 12 East, 46.

(*m*) *St. Anne Westminster* (*Churchwardens*) v. *Linnean Society* (1854), 3 E. & B. 793, *infra*, p. 88.

(*n*) *Yates* v. *Chorlton-upon-Medlock Union* (1883), 47 J. P. 630;

well as among those cited below with reference to occupation for purposes of the Crown. In one of the cases last cited (*o*), the employer was rated and this was held to be correct.

The converse case arises where, though the occupier happens to be a servant, his occupation is that of a tenant and the servant is himself rateable. Thus, a miner is rateable for his house, though it belongs to his employers and he pays no rent for it ; because the miner is not required to live in that particular house for the better performance of his duties (*p*). A similar decision was given with regard to the head-brewer of a brewery who occupied a house outside the brewery, though the firm of brewers paid the rent, and could have sent another servant of theirs to lodge with him, if they desired (*q*). The master of a free school was, indeed, long ago held to be rateable for his house (*r*) ; but his occupation seems to have been " strictly ancillary to the perform- " ance of " his duties, and it may be doubted whether a similar case would be so decided at the present day.

Questions of this kind have often arisen in connection with the exemption from rating where the occupation is for the purposes of the Crown, especially with regard to the residence of persons employed in the military forces and in the police. In the latest of

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Hicks v. *Dunstable Overseers* (1883), 48 J. P. 326 ; *Bursledon Overseers* v. *Clarke* (1897), 61 J. P. 261 ; *Bertie* v. *Walthamstow Overseers* (1904), 68 J. P. 545 (here the caretaker had other duties also).

(*o*) *Hicks* v. *Dunstable, supra.*

(*p*) *Smith* v. *Seghill, supra.*

(*q*) *R.* v. *Lynn* (1838), 8 Ad. & E. 379.

(*r*) *R.* v. *Catt* (1795), 6 T. R. 332 ; this case was approved (amongst others) by the H. L. in *Poplar Assessment Committee* v. *Roberts*, [1922] 2 A. C. 93, as showing that an occupier from whom no rent can be demanded may be rateable ; the question dealt with in the text did not there arise.

such cases (*s*), three non-commissioned officers of the regular army (acting as sergeant-instructors to territorial units) were held not to be rateable for their dwelling-houses, which were provided by the County Association under the Territorial Forces Act, 1907 (*t*), and in which they lived with their families ; they were compelled by military orders to live in those houses ; in two of the houses certain rooms were used for office and storage purposes ; the third was used for no other purpose than residence, and the sergeant-instructor residing there performed no duties at home ; none of the houses adjoined any premises devoted to military purposes. This was a decision of the Court of Appeal, and in view of the facts just summarised, it seems to overrule, or to render obsolete, those earlier cases in which military, police, and prisons officers were held rateable for the houses in which they resided under orders, either on the ground that they used them for purely residential purposes (*u*), or that the houses did not adjoin, *e.g.* a police station (*x*)—although some of these were decisions of the same Court.

The dwelling-houses of police officers which adjoined or included police offices or magistrate's courts had already been held not to be rateable (*y*) in spite of their

(*s*) *Wixon* v. *Thomas*, [1911] 1 K. B. 43 ; *Wixon* v. *Thomas* (No. 2), [1912] 1 K. B. 690 ; the latter decision was in effect an appeal against the former. As the employer was the Crown, or was acting on behalf of the Crown, the result was that no one was rateable, *vide infra*, pp. 81–83.

(*t*) 7 Edw. 7, c. 9.

(*u*) See *R.* v. *Hurdis* (1789), 3 T. R. 497 ; *Gambier* v. *Lydford Overseers* (1854), 3 E. & B. 346 ; *R.* v. *Bridgehouse* (1869), 20 L. T. 658 ; *Martin* v. *West Derby Union* (1883), 11 Q. B. D. 145 (C. A.).

(*x*) See *McHarg* v. *Stoke Assessment Committee* (1884), 48 J. P. 775 ; *Monmouth Overseers v. Monmouthshire County Council* (1902), 66 J. P. 788 ; *Showers* v. *Chelmsford Union*, [1891] 1 Q. B. 339.

(*y*) *R.* v. *St. Martin's Leicester* (*Inhabitants*) (1867), L. R. 2 Q. B. 493 ; *Cross* v. *West Derby Union* (1899), 16 T. L. R. 120.

being used for family residence (*z*); and so had some dwelling-houses of prison officers (*a*). But, as already indicated, the effect of the decision in *Wixon* v. *Thomas* seems to be that dwelling-houses provided for military, police, or prison officers, who are under orders to reside in them, are not in rateable occupation, wherever the houses are situated, and whether official duties are performed in them or not.

User.—Much stress was laid in former times upon benefit as an element in rateable occupation; and it was held that occupation which in other respects satisfied the requirements of the Statute of Elizabeth was not a rateable occupation unless it was also "beneficial." For example, a person might be in actual occupation of a dwelling-house; but if he occupied it in the character of an executor only, and the only purpose of his occupation was to let the house and sell the furniture, his occupation might not be beneficial, and if so, it would not be rateable (*b*). This question has, however, receded much in importance of late years; for though it is still true "that there can be no valid "rate unless the occupation be such as to be of value," as BLACKBURN, J., said in *Mersey Docks* v. *Cameron* (*c*), the cumulative effect of the latter cases is that almost any use made of the hereditament by the occupier gives him an occupation "of value" for this purpose,

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(*z*) *Leicester County Council* v. *Leicester Assessment Committee* (1898), 78 L. T. 463.

(*a*) *R.* v. *Shepherd* (1841), 1 Q. B. 170; *Bedfordshire JJ.* v. *St. Paul Bedford Overseers* (1852), 21 L. J. M. C. 228.

(*b*) *R.* v. *Bradshaw* (1860), 29 L. J. M. C. 176; the occupier was not allowed to raise the question or benefit in that case, which arose out of distress proceedings, and the question was held to be one for appeal only, *vide infra*, p. 304. As to empty houses, *vide infra*, p. 57.

(*c*) (1865), 11 H. L. C. 443, at p. 462; *supra*, p. 33.

and makes him rateable. Indeed, Lord HERSCHELL, L.C., in *London County Council* v. *Erith* (*d*), while quoting with approval the passage just cited, supplemented the statement of BLACKBURN, J., by adding, "The learned "judge, in my opinion, did not and could not have "meant that it is essential to rateability that a particular "occupier of the land can make a pecuniary profit by "the use to which he is putting it. It is, I think, rate-"able whenever the occupation is of value."

The cases last cited settled the principle that statutory and local authorities are rateable for such property as docks or sewers, although they have to devote the profits made out of its occupation to statutory purposes, or although they can make no pecuniary profit out of that occupation; it is only in respect of public parks or highways (*e*), or of premises used for the purposes of the Crown (*f*), that local authorities are not rateable. But those cases left unsettled the question (which applies both to such authorities and to private persons) what amount of user was necessary to make the occupation one of value.

The owner of building land, who merely puts up a notice upon it stating that it is "to let," is not rateable, because he makes no use of the land (*g*). Thus there is no rateable occupation of an exhausted mine, though the tenancy of it has not yet determined, because "the "subject matter of profit is gone" (*h*); and if the mine is drowned out and is being pumped, the mine itself and the pumping plant are not in rateable occupation,

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(*d*) [1893] A. C. 562, at pp. 585; see also p. 591.
(*e*) *Vide supra*, pp. 34, 35.
(*f*) *Supra*, p. 33.
(*g*) *Smith* v. *New Forest Union* (1889), 54 J. P. 324.
(*h*) *R.* v. *Bedworth* (*Inhabitants*) (1807), 8 East, 387.

although the surface-lands may be so (*i*). On the other hand, the tenant of a mine that is being worked is in rateable occupation, although the rent that he pays may swallow up the whole of his profit (*k*).

Again, where a cotton mill is not being worked, by reason of circumstances connected with the cotton trade or because the owner has given up business and wishes to sell the mill, if the machinery is kept in the mill and is kept in order, the occupation of the mill by its owner is still rateable, because it is of value to him for the purpose of storing and keeping the machinery (*l*).

Use may (in certain circumstances) be made of a hereditament, although during the period of a particular rate, nothing is being actively done upon it; thus, saleable underwoods are rateable though they are not being cut for sale in a given year, or even in a series of years, because the land is being used by allowing the underwoods to improve in value for the purpose of being cut for sale at the due time (*m*); so is land on which *e.g.* fruit trees are grown, though for many months in the year the occupier has no occasion to go upon the land (*n*). The case of meadow-land perhaps affords a more striking illustration (*o*). For the same reason, and in

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(*i*) *Tyne Coal Co.* v. *Wallsend Overseers* (1877), 46 L. J. M. C. 185.

(*k*) *R.* v. *Parrot* (1794), 5 T. R. 593.

(*l*) *Staley* v. *Castleton Overseers* (1864), 33 L. J. M. C. 178, *Harter* v. *Salford Overseers* (1865), 34 L. J. M. C. 206; in these cases, the question of rateability was decided, as well as that of the measure of rateable value, for which they are frequently cited, *vide infra*, pp. 132–134.

(*m*) *R.* v. *Mirfield* (*Inhabitants*) (1808), 10 East, 219.

(*n*) *Per* BUCKLEY, L.J., in *Liverpool Corporation* v. *Chorley Union*, [1912] 1 K. B. 270, *infra*, at pp. 287–8, where the case last cited was approved.

(*o*) *R.* v. *Heaton* (1856), 20 J. P. 37; the decision in *Pembroke* v. *Wye Overseers* (1883), 47 J. P. 359, is to some extent confused by other issues. In modern farming of whatever kind, of course, land is rarely let alone for the whole period of a rate.

addition because there were left upon the premises, mirrors, chairs, etc., in the case of the shop, and blinds, floor-cloth, and other chattels (but not furniture) in the case of the boarding-house—the tenants of a shop (*p*), and of a boarding-house (*q*), at seaside places were held to be in rateable occupation during the winter periods, as well as the summer, though it was only in the summer that the premises were used as a shop, or as a boarding-house.

But there was no obscuring of the principle by the presence of chattels on the premises in the case of *R.* v. *Melladew* (*r*), where a certain warehouse in the occupation of a warehouseman was left absolutely empty for the period in question, but the warehouseman was prepared to receive applications for the hire of storage room and to receive goods in the warehouse at any moment, provided enough goods were offered to fill it to half its capacity; that occupation was held to be rateable, because "the intention of the alleged occupier "in respect of the hereditament is a governing factor "in determining the question whether rateable occu-"pancy has been established" (*s*). The test was stated by FARWELL, L.J., as follows: "Has the person to "be rated such use of the tenement as the nature of "the tenement and of the business connected with it "renders it reasonable to infer was fairly within his con-"templation in taking or retaining it? . . . The question "must be whether they are kept in such a state as to be "capable at any time of being used in a continuing

(*p*) *Southend-on-Sea (Mayor, etc.)* v. *White* (1900), 65 J. P. 7.

(*q*) *Gage* v. *Wren* (1903), 67 J. P. 32; these two cases arose upon general district rates, but the nature of rateable occupation for that rate is the same as for poor rate.

(*r*) [1907] 1 K. B. 192.

(*s*) *Per* COLLINS, M.R., at p. 201.

" business " (*t*). And as COLLINS, M.R., pointed out, " The business of a warehouseman need not involve " the actual presence on the premises either of the ware- " houseman himself, or of any representative, or of " any movable chattels. If he has the necessary " appliances ready for use when the demand for storage " comes, he is in a position to do business to " which the physical occupation of the premises is " indispensable " (*u*).

The above principles apply to any premises kept as a stand-by. In the case (*x*) of a warehouse-building owned, not by a warehouseman, but by a firm of manufacturers who had purchased and retained it, so that they might use it in the event of a sale of their existing premises or of a fire or other emergency, there were no chattels in the warehouse, though some had been there, and had been removed before the rate was made ; the firm had made no other use of the warehouse ; there were some shafting and fixed benches installed, but further fittings would be required to bring the building into general use for the firm's business, and machinery and motive power would have to be provided. The firm were held to be in rateable occupation of the warehouse, because " the place is kept by the appellants " as a ' stand-by ' for use at any moment when the " exigencies of their business may make it desirable so " to use it, and is in readiness for such use. Such a " state of things constitutes a permanent user so as to

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(*t*) At pp. 203–4; FARWELL, L.J., distinguished an earlier case of *Bootle Overseers* v. *Liverpool Warehousing Co.* (1901), 85 L. T. 45, where the company had been held not rateable, on the ground that the warehouses there were withdrawn absolutely from their owner's trade.

(*u*) *R.* v. *Melladew*, [1907] 1 K. B., at p. 202.

(*x*) *Borwick* v. *Southwark Corporation*, [1909] 1 K. B. 78.

"create an occupation" (*y*). Upon the same principles, exhibition buildings may be in rateable occupation, even during a period when no exhibition is being held (*z*).

The test indicated by FARWELL, L.J., in the pasage cited from his judgment in *R.* v. *Melladew* (*a*) (dealing with a privately owned hereditament), applies equally to a portion of a public utility undertaking owned by a local authority. In *Liverpool Corporation* v. *Chorley Union* (*b*) a gathering-ground for the water which flowed into the corporation's reservoirs, purchased and retained by them for the sole purpose of preventing the pollution or diversion of that water that might result if the gathering-ground were in other hands than theirs, was held to be in their rateable occupation; for they were "enjoying the benefit for which they bought the "land," although, in a sense, they had bought it "for "the express purpose that it should not be occupied."

An extreme (and perhaps doubtful) application of the above decisions took place where the Metropolitan Asylums Board were held to be in rateable occupation of premises which they had purchased in order to convert them into an extension of their adjoining fever hospital, and which were still in process of conversion; the premises had indeed been used by the Board after purchase, to cope with an epidemic, but they had ceased so to use them before the rate was made, and all furniture, etc., had been removed, though some coal was kept on the premises in order to test the boilers; the

(*y*) *Per* BIGHAM, J., at p. 84.

(*z*) *Shepherd's Bush Improvements, Ltd.* v. *Hammersmith Borough Council* (1910), 74 J. P. 280.

(*a*) *Supra*, p. 51.

(*b*) [1912] 1 K. B. 270; see *per* VAUGHAN WILLIAMS, L.J., at p. 284, and *per* BUCKLEY, L.J., at p. 288; [1913] A. C. 197.

reconstruction had then been begun, and the work was going on throughout the period in question, so that it was impossible to use the premises for hospital purposes. The grounds of the judgment were " that there was no " evidence of an intention to cease occupation. . . . " They were owners in possession. They were in fact " using the premises in the way in which they had " intended to use them when purchased " (*c*). Although it may be somewhat difficult to justify the last sentence upon the circumstances of that particular case, the passage cited exactly indicates the principles of law applicable at the present day.

Ownership as an element of Rateable Occupation.—An owner in possession is *primâ facie* in rateable occupation. It is open to him to show that he makes no use of the land ; but from the cases considered above under the heading of " user " it will be seen that this burden has become somewhat difficult to discharge, except indeed where a house or land is absolutely vacant and is to let or for sale (*d*), and of course where the rateable occupation is in some other person (*e*).

The above rule is established by *Winstanley* v. *North Manchester Overseers* (*f*) where the rector of a parish in whom a burial-ground was vested by statute (*g*), and who received fees for interments therein, was held to be in rateable occupation, because being the owner

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(*c*) *Hackney Borough Council* v. *Metropolitan Asylums Board* (1924), 88 J. P. 129.

(*d*) See *Langford* v. *Cole* (1910), 74 J. P. 229, *infra*, p. 56 ; *Smith* v. *New Forest Union* (1890), 54 J. P. 324, *supra* p. 49. " Empty Houses " are considered below, p. 57.

(*e*) See *e.g. Holywell Union* v. *Halkyn Mines Drainage Co.*, [1895] A. C. 117, *supra*, p. 24.

(*f*) [1910] A. C. 7.

(*g*) Church Building Act, 1845, 8 & 9 Vict. c. 70, s. 13.

he was in occupation and the burial fees accrued to him by virtue of that occupation. It has been applied in the subsequent cases (*h*) where the persons whom it was sought to rate happened to be owners; but it is equally applicable where that person is a tenant. Rateability does not depend on title (*i*); and the rule is really wider than would appear if the cases above cited alone are looked at. Any person in possession is, *primâ facie*, a rateable occupier, unless he is shown to be making no use of the hereditament; in *R.* v. *Melladew* (*k*) there is no finding as to the title under which the warehouseman held, and in *Southend-on-Sea* v. *White* and *Gage* v. *Wren* (*l*), the shopkeeper and the boarding-house keeper were tenants, and not owners.

Limits of Rateable Hereditament.—Where, in any of the cases cited above (*m*), the lessee or licensee of a portion of a larger property is found to be in rateable occupation of that portion, it consequently becomes a separate rateable hereditament; the outstanding example is that of a flat (*n*). It has been seen that there may be such a separate hereditament without any absolute structural separation, and even though some subsidiary part of the premises is enjoyed in common by the owners of both portions (*o*).

Another question often arises in practice, whether property (all situate in the same parish) occupied by a

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(*h*) *Liverpool Corporation* v. *Chorley Union*, *supra*, p. 53, see especially *per* BUCKLEY, L.J., [1912] 1 K. B., at p. 287; *Hackney Borough Council* v. *Metropolitan Asylums Board*, *supra*, p. 54.

(*i*) *Vide supra*, p. 21.

(*k*) *Supra*, p. 51.

(*l*) *Supra*, p. 51.

(*m*) *Supra*, pp. 35–48.

(*n*) *R.* v. *St. George's Union* (1871), L. R. 7 Q. B. 90, *supra*, p. 37.

(*o*) *Allchurch* v. *Hendon Union*, [1891] 2 Q. B. 436, *supra*, p. 37.

single person forms one or more rateable hereditaments ; but the point has not come frequently before the Courts. The principle on which the question is to be answered is that any portion of the property which is capable of being let to a tenant apart from the rest, like warehouses belonging to a dock undertaking (*p*), although it is not in fact so let, may properly be rated as a separate hereditament. Thus, where a mansion-house was empty and was for sale, but the stables, gardens, and an adjoining meadow were actually used by the owner when the rate was made—the stable and gardens were let off after that date—it was held that the mansion-house and the rest of the property formed different rateable hereditaments (*q*).

On the other hand, the application of this principle must not be pushed too far ; the question is always one of fact, or of degree. " Property must be rated accord-" ing to what it is, and not according to what it might " be. You may have a thing which, as it is, is one " hereditament, but which is quite capable of being " made into two . . . while it is undivided it is one here-" ditament " (*r*). Therefore, a farm or other agricultural holding is to be treated as a whole ; it is not for the rating or assessment authorities to say that the various fields which it includes might be differently let (*s*) ; and a great railway station for passengers and goods with running lines and sidings, warehouses, engine sheds, shops, and other appurtenances was held

(*p*) *Mersey Docks, etc., Board* v. *Birkenhead Overseers* (1873), L. R. 8 Q. B. 445, *infra*, p. 196.

(*q*) *Langford* v. *Cole* (1910), 74 J. P. 229 ; the facts of this case are somewhat complicated.

(*r*) *North Eastern Railway Co.* v. *York Union*, [1900] 1 Q. B. 733, *per* CHANNELL, J., at p. 739.

(*s*) *Rawlence* v. *Hursley Union* (1877), 3 Ex. D. 44.

to have been properly assessed as a single hereditament (*t*). So was the whole of a blast-furnace plant which included eight furnaces, with railway sidings and so on ; the fact that some of the furnaces were out of use was held to make no difference, because this was a normal condition of working (*u*).

Empty Houses.—Empty houses are not rateable. A house is rateably occupied if it is used " for the " purpose of living in it, or . . . working in it, keeping " animals in it, storing other chattels in it, or using it " for some such other purposes as houses may reasonably " be devoted to ; . . . as a vacant house is not used for " any of these purposes, it is not occupied *as a house* " within the meaning of the statute " of Elizabeth (*x*). But the house must not be used for any of these purposes or it will be in rateable occupation, even though no one —or a caretaker only—resides in it. If the house is to let, and is actually empty, it is not in rateable occupation (*y*) ; but if there is furniture stored in the house, though the only persons dwelling there are a caretaker and his family, the owner or tenant is rateable (*z*). Again, if the furniture in the house is sufficient only for the accommodation of the caretaker and his family, it is not the practice to rate the owner or tenant (*a*) ; the caretaker cannot be rated (*z*).

(*t*) *N. E. R. Co.* v. *York Union, supra ;* the station-hotel and refreshment rooms had been separately assessed.

(*u*) *Consett Overseers* v. *Durham County Council* (1922), 20 L. G. R. 809.

(*x*) *Per* Lord ATKINSON in *Liverpool Corporation* v. *Chorley Union*, [1913] A. C., at p. 211 ; see also *per* VAUGHAN-WILLIAMS, L.J., in the same case, [1912] 1 K. B., at p. 284 ; and *per* LUSH, J., in *R.* v. *St. Pancras Assessment Committee* (1877), 2 Q. B. D. 581, at p. 588, *supra*, p. 20.

(*y*) *Langford* v. *Cole* (1910), 74 J. P. 229, *supra*, p. 56.

(*z*) *Hicks* v. *Dunstable Overseers* (1883), 48 J. P. 326 ; *Bursledon Overseers* v. *Clarke* (1897), 61 J. P. 261, *supra*, p. 46.

(*a*) See *per* Lord ALVERSTONE, C.J., in *Bertie* v. *Walthamstow Overseers* (1904), 68 J. P. 545 ; the point has not been judicially decided.

The fact that a house is empty in part does not affect rateability, unless the parts are separate rateable hereditaments (*b*).

Occupation for a period only.—It has been seen that intermittent acts done on the hereditament may yet be sufficient to establish such a user as to make the occupation rateable (*c*). And if the occupation is continuous, though is only intended to last for a short period, there may yet be a rateable occupation during that period ; and thus there may be a rateable occupation by the erection of temporary buildings, like huts for the accommodation of workmen employed in a constructional work, which will be removed when the construction is completed (*d*). It is difficult to explain two later decisions in which contractors were held not to be in rateable occupation of a railway (*e*), and of temporary buildings (*f*), used by them in the course of construction of works.

Property in the parish.—Many of the older decisions (*g*) refer to, and indeed turn upon, the question whether the property which is alleged to be rateable is situate in the parish, the statute of Elizabeth (*h*) enabling the overseers to rate only the occupiers of land, etc., in their own parish. And under the Act of 1925, although the rate is made by the rating authority for the rating area (*i*), the rate cannot be charged in respect of any property which is not within one of the

(*b*) *Vide supra*, p. 55. (*c*) *Supra*, p. 50.

(*d*) *Mitchell* v. *Worksop Union* (1904), 69 J. P. 53.

(*e*) *Re Nott and Cardiff Corporation*, [1918] 2 K. B. 146.

(*f*) *Cleveland Bridge, etc., Co.* v. *Darlington Union* (1923), 21 L. G. R. 511.

(*g*) See especially those cited, *supra*, pp. 26, 33, relating to canals and harbours.

(*h*) *Vide supra*, p. 19. (*i*) See Chapter I.

parishes (*k*) comprised in the rating area. This matter is still of importance with regard to the calculation of rateable value for the portions of railway, gas, and water and other public utility undertakings which extend into more than one rating area (*l*). But as regards the bare question of rateability, the point does not often arise; for there is included (*m*), in the adjoining parish, in proportion to the extent of its boundary, "every accre- "tion from the sea, whether natural or artificial, and the "part of the seashore to the low-water mark, and the "bank of every river to the middle of the stream." Land added by reclamation works is an artificial accretion within the meaning of this section; the fact that it is reclaimed by building walls and by levelling up the surface with chalk does not prevent it from being an accretion (*n*), and from being therefore incorporated in the adjoining parish. On the other hand, a wooden promenade pier supported on iron piles has been held not to be such an accretion (*o*); and therefore to be rateable only as far as low-water mark. "But whether "a stone jetty was such an accretion would depend on "the particular facts" (*p*).

Besides such property as piers and jetties, coal workings beyond low-water mark are still outside any parish or rating area; but here again, as the coal has to be brought to the surface above low-water mark, some part of the colliery is usually rateable, and the fact that another part is outside any parish results merely in a reduction of rateable value (*q*).

(*k*) As defined in s. 68 (4) of the Act of 1925.

(*l*) See Chaps. X, XI.

(*m*) Poor Law Amendment Act, 1868, 31 & 32 Vict. c. 122, s. 27.

(*n*) *Barwick* v. *S. E. and Chatham Rail. Co.*, [1921] 1 K. B. 187.

(*o*) *Blackpool Pier Co.* v. *Fylde Union* (1877), 46 L. J. M. C. 189, a decision which was left undisturbed by the case last cited.

(*p*) *Per* SCRUTTON, L.J., [1921] 1 K. B., at p. 201.

(*q*) *Vide infra*, p. 165.

Tithe Rentcharge.—Tithe rentcharge attached to a benefice (as defined in the Tithe Act, 1925) (*r*) is now, by s. 3 of that Act, vested in Queen Anne's Bounty, and by s. 7 rates in respect of such a rentcharge, though assessed on the parson or vicar, are not payable by him, but by the surveyor of taxes on behalf of the Commissioners of Inland Revenue out of moneys handed over to them by Queen Anne's Bounty (*s*). The power to rate the parson or vicar is derived from the statute of Elizabeth, where he is expressly named (*t*).

Where a tithe rentcharge is in the hands of a spiritual corporation, such as a Dean and Chapter, or of a College, or of a lay impropriator, that body or individual is rateable for it, as an "occupier of tithes impropriate" or propriations of tithe," by virtue of the statute of Elizabeth or as the owner of tithe rentcharge within the meaning of the Tithe Act, 1891 (*u*), by virtue of s. 6 of that Act. A rentcharge or corn rent or other annual payment attached to a benefice under an Inclosure Act or other local Act of Parliament, in lieu of tithes, makes the parson or vicar rateable (*x*); but an annuity or a rector's rate so attached does not make him rateable, if it is not directed by the Act of Parliament (under which it is paid) to be payable in lieu of

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(*r*) 15 & 16 Geo. 5, c. 87, s. 24 (1). The valuation of tithe rentcharges, etc., is considered in Chap. XII.

(*s*) S. 5 (i) (*b*).

(*t*) 43 Eliz. c. 2; see Poor Rate Exemption Act, 1840, 3 & 4 Vict. c. 89, s. 1; *R.* v. *Bartlett* (1708), 1 Const.'s Bott. 127, n.; *R.* v. *Turner* (1718), *ibid.* 126.

(*u*) 54 & 55 Vict. c. 8. The definition of "tithe rentcharge" is, save for the references to "the appointed day" and to "the Tithe "Acts," instead of the "Tithe Act, 1860," the same as that in the Tithe Act, 1925. S. 6 exonerates the occupier of the land from paying rates on the tithe rentcharge.

(*x*) *Lowndes* v. *Horne* (1779), 2 Wm. Bl. 1252; *R.* v. *Boldero* (1825), 4 B. & C. 467; *R.* v. *Wistow* (1836), 5 Ad. & E. 251.

tithes or upon the extinguishment of tithes (*y*). Not all payments described in any Act of Parliament as tithes, nor all commutations of such tithes, are rateable under the statute of Elizabeth (*z*). Where, therefore, a payment resembling a tithe rentcharge is payable under the directions of an Inclosure Act or other special Act of Parliament, the Act itself must be examined in order to see whether it is rateable or not ; some of these acts contain express provisions for exemption (*a*).

So long as the Tithe Rentcharge (Rates) Act, 1899, continues in force, only one-half the general rate is leviable in respect of tithe rentcharge attached to a benefice (*b*).

An extraordinary tithe rentcharge imposed on hop-gardens, orchards, fruit plantations and market gardens is not subject to rates (*c*).

Advertising stations. — Hoardings and other structures used for the exhibition of advertisements are subject to special provisions with regard to rating (*d*). The advertising contractor himself is not rateable (*e*) ; unless indeed he exhibits advertisements on the wall

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(*y*) In *R.* v. *Great Hambleton Churchwardens* (1834), 1 Ad. & E. 145 ; and *R.* v. *Christopherson* (1885), 16 Q. B. D. 7, it was not so directed.

(*z*) *Esdaile* v. *City of London Union* (1887), 19 Q. B. D. 431 ; *Edwards* v. *St. Olave's Union*, Ryde (1891–93), 293.

(*a*) As in *Chatfield* v. *Ruston* (1825), 3 B. & C. 863 ; *Mitchell* v. *Fordham* (1827), 6 B. & C. 274 ; *R.* v. *Shaw* (1848), 12 Q. B. 419.

(*b*) The other half is paid by the Inland Revenue out of moneys contributed by the Treasury, 62 & 63 Vict. c. 17, s. 1 ; this Act continues in force with the Agricultural Rates Act, 1896, which is extended to March 31, 1928, by 16 & 17 Geo. 5, c. 49, *vide infra*, p. 98.

(*c*) Extraordinary Tithe Redemption Act, 1886, 49 & 50 Vict. c. 54, s. 4 (5).

(*d*) Advertising Stations (Rating) Act, 1889, 52 & 53 Vict. c. 27, ss. 3, 4.

(*e*) *Burton* v. *St. Giles Assessment Committee*, [1900] 1 Q. B. 389.

of a building which he occupies for other purposes. But the person who permits him to use the land, or to erect a hoarding, etc., for advertisements, is to be rated ; this includes a building contractor who erects a hoarding on a public highway, and allows an advertisement contractor to use it (*f*). If the person who permits the use cannot be ascertained, the owner is rateable (*g*).

If, however, a piece of a land or a building is occupied for other purposes as well as for advertisements, the advertising station does not form a separately rateable hereditament ; the occupier of the land or building is rateable for the whole, and the effect of the use for advertisements is confined to an increase in the rateable value of the whole (*h*). That is so, even where a tenant occupies a house under an agreement by which his landlord reserves the right to let the side-wall of the house as an advertising station (*i*).

Allotments.—A council (*k*), or an approved society as defined in the Allotments Act, 1925 (*l*), which provides land for allotments, may, if they give notice to the rating authority, be rated for that land though it is wholly or partly let to tenants ; and will be deemed to be occupiers unless and until they withdraw the notice.

Mines other than coal mines.—Where the royalty or dues payable in respect of a mine other than a coal mine are wholly reserved in kind, it is the owner

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(*f*) S. 3 ; *Chappell* v. *St. Botolph Overseers*, [1892] 1 Q. B. 561.

(*g*) S. 3.

(*h*) S. 4.

(*i*) *Lewisham Corporation* v. *Avey* (1912), 76 J. P. 343 ; cf. *Shelly* v. *Dillon* (1892), 30 L. R. Ir. 304.

(*k*) Allotments Act, 1922, 12 & 13 Geo. 5, c. 51, s. 17 ; " Council " includes a parish meeting, in a small parish having no parish council, s. 22. As to valuation, *vide infra*, p. 94.

(*l*) 15 & 16 Geo. 5, c. 61, s. 11, s. 2 (8).

and not the occupier who is rated for the mine itself, even though he has an option to receive the full value of the royalty or dues in money ; the lessees are rateable for the surface works and plant (*m*).

Where the royalty or dues in respect of such a mine are not wholly reserved in kind, the occupier is rateable, but there may still be a few cases in which the occupier has a right to deduct half the rates against his lessor (*n*).

Sporting rights.—Where any right of sporting is severed from the occupation of the land and is let, either the owner or the lessee of the sporting right is to be rated as the occupier of them, as the rating authority determine ; the " owner " is the person who is entitled to receive the rent for the sporting right (*o*). This includes a case where the owner of the land retains it in his own hands and lets the sporting right (*p*) as well as the case where he lets land and sporting to separate persons. Where it is severed from the occupation of the land, and is not let, the person entitled to exercise the right may be rated as the occupier of the right, if he does not receive rent for the land (*q*). But, according to a recent decision, a sporting right appears not to be " let " unless it is let *by deed*, nor " severed " unless it is so let (or is reserved by the landlord in letting the land) ; and a person who has by payment of an annual

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(*m*) The decision in *R.* v. *St. Austell* (*Inhabitants*) (1822), 5 B. & Ald 693, is preserved by the Rating Act, 1874, 37 & 38 Vict. c. 54, s. 13 ; *Van Mining Co.* v. *Llanidloes Overseers* (1876), 1 Ex. D. 310.

(*n*) Act of 1874, s. 8, see Appendix ; as to " specific contracts," see *Chaloner* v. *Bolckow* (1878), 3 App. Cas. 933 ; *Duke of Devonshire Barrow Hæmatite Steel Co.* (1877), 2 Q. B. D. 286.

(*o*) Rating Act, 1874, 37 & 38 Vict. c. 54, ss. 3 (2), 6 (2).

(*p*) *Kenrick* v. *Guilsfield Overseers* (1879), 5 C. P. D. 41.

(*q*) *Ibid.* s. 6 (3), (4), read with sub-s. (1).

sum to riparian owners and occupiers obtained a licence to fish in a river during the fishing season is not rateable (*r*).

Where the occupier of the land (whether owner or tenant) enjoys the sporting right (*s*), or where the land is let at a rent, and the landlord reserves the sporting right, without letting it by deed to another person (*t*), there is no separate rating of that right, but the occupier of the land is rated for the whole, any increase due to the sporting being included in its value. In the latter case, the occupier of the land may apply to have the amount of the increase certified by the assessment committee; and may deduct from the rent so much of the rates paid as is attributable to that amount (*u*).

Bankruptcy, winding-up, etc.—A bankrupt may continue to be the rateable occupier of the premises occupied by him before the receiving order, even though his title is derived from the trustee in bankruptcy (*x*). But where the trustee takes possession of the chattels on the premises and leaves them there for safe custody with the debtor as caretaker, the trustee is the rateable occupier while such a state of things continues; he does not get rid of his liability to rates during that period by afterwards giving notice that he disclaims the tenancy (*y*).

In a winding-up, the liquidator continues in rateable occupation of the premises occupied by the company, and his occupation is the occupation of the company (*z*).

(*r*) *Swayne* v. *Howells*, [1927] 1 K. B. 385, decided upon s. 6 (3), (4).

(*s*) *R.* v. *Williams* (1854), 23 L. T. (O. S.) 76.

(*t*) This appears to be the effect of applying to s. 6 (1), the reasoning of the judgment in *Swayne* v. *Howells*, *supra*; see also *Rogers* v. *St. Germans Union* (1876), 40 J. P. 807.

(*u*) S. 6 (1), *vide infra*, p. 100.

(*x*) Cf. *In re Thomas* (1887), 57 L. J. Q. B. 39.

(*y*) *In re Lister, Ex parte Bradford Overseers*, [1926] Ch. 149.

(*z*) *In re Wearmouth Crown Glass Co.* (1882), 19 Ch. D. 640.

Where a receiver is appointed under a deed of floating charge, or in a foreclosure action, the question whether the receiver, or the company or other mortgagor, is in rateable occupation, appears to depend on the terms of the appointment. Where the receiver is appointed and enters under a deed which gives the trustee power to take possession, the receiver has been held to be the rateable occupier and the company's rateable occupation to be at an end, although the deed provides that the receiver is to be deemed the agent of the company (*b*). On the other hand, where the receiver is appointed by an order of the Court in an action brought by debenture-holders (*c*), or by mortgagees (*d*), and the order does not direct the company to give up possession to the receiver, the company has been held to remain in rateable occupation, notwithstanding that the receiver is empowered to take possession of the chattels, and to manage the business on the premises, and that he does so. In these cases, the question was treated as one of "legal possession" (*e*); but it is somewhat difficult to reconcile these decisions with the principle that rateable occupation does not depend upon title (*f*).

Difficult questions which arise as to priority, and as to distress, in bankruptcy, winding-up, etc., are considered in connection with the recovery of rates (*g*).

Deficiency during construction.—Promoters of an undertaking, acting under parliamentary powers,

(*b*) *Richards* v. *Kidderminster Overseers*, [1896] 2 Ch. 212.

(*c*) *In re Marriage, Neave & Co.*, [1896] 2 Ch. 663; see also *Paterson* v. *Gas Light & Coke Co.*, *ibid.* 476.

(*d*) *National Provincial Bank, Ltd.* v. *United Electric Theatres, Ltd.* (1916), 80 J. P. 153.

(*e*) See *per* LINDLEY, L.J., [1896] 2 Ch. at p. 672.

(*f*) *Vide supra*, p. 21.

(*g*) *Infra*, pp. 313–316.

whose special act incorporates s. 133 of the Lands Clauses Act, 1845, are liable in a rural rating area to make good the whole, and in an urban rating area to make good one-half, of the deficiency in the general rate caused by lands being taken or used for the purpose of the works (*h*). This section does not impose a liability to be rated (*i*), and merely creates a debt due to the rating authority (*k*); nevertheless it seems convenient to deal with the matter here.

Section 133, if incorporated, applies not only to promoters of undertakings for profit, but to local authorities carrying out improvements such as street widenings, although the result of the "undertaking" may be that the land becomes permanently non-rateable as being a public highway (*l*). But it is expressly prevented from applying where local authorities act under the Housing Acts (*m*).

The liability arises only in respect of lands which were liable to be assessed to the general rate (or to its predecessor, the poor rate (*n*)) at the date of the passing of the special Act; these include lands which were not in fact occupied at that time (*o*), but do not include lands in the occupation of the Crown (*p*). If the lands

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(*h*) 8 & 9 Vict. c. 18, s. 133; Rating and Valuation Act, 1925, s. 2 (7). See Appendix.

(*i*) *Mayor, etc., of London* v. *St. Andrew Holborn* (1867), L. R. 2 C. P. 574.

(*k*) *Stratton* v. *Metropolitan Board of Works* (1874), L. R. 10 C. P. 76; the procedure for the recovery of rates does not apply.

(*l*) *Wheeler* v. *Metropolitan Board of Works* (1869), L. R. 4 Ex. 303; *Stratton* v. *M. B. W., supra.*

(*m*) Act of 1909, 9 Edw. 7, c. 44, s. 34; Act of 1919, 9 & 10 Geo. 5, c. 35, s. 40; Act of 1923, 13 & 14 Geo. 5, c. 24, s. 17.

(*n*) *Vide supra*, p. 6.

(*o*) *Putney Overseers* v. *L. & S.W. Rail. Co.*, [1891] 1 Q. B. 440.

(*p*) *Stratton* v. *M. B. W., supra.*

are taken for the purpose of works authorised by the special Act, the taking is also assumed to have been so authorised (*q*).

The amount of the deficiency is to be calculated separately for each rating area (*r*) ; and if more than one undertaking is carried on by the same promoters, separately for each undertaking (*s*). The deficiency is established by the excess (if any) of the rateable value of the lands taken, as it stood at the time of the passing of the special Act, over the rateable value as it stands at the time of the making of the rate (*t*). The fact that an allowance was made, before the lands were put out of rating, to owners who paid the rates instead of the occupiers is to be left out of account (*u*). As soon as any of the lands are liable to be rated again, their rateable value must be credited (*x*). In some cases, the land does not go out of rating during the construction and there may thus be no deficiency (*y*) ; in others, temporary structures erected on the land may be rateable at a certain sum, which will reduce the deficiency (*z*).

Subject to what has just been said, the liability commences when possession of the land is taken by the

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(*q*) *Putney Overseers* v. *L. & S.W. Rail. Co.*, [1891] 1 Q. B., 440.

(*r*) *Governor, etc., of the Poor of Bristol* v. *Mayor, etc., of Bristol* (1887), 18 Q. B. D. 549 ; cf. *East London Rail. Co.* v. *Whitechurch* (1874), L. R. 7 H. L. 81.

(*s*) The *Bristol* case, *supra*. No general rule can be laid down as to what is a separate undertaking.

(*t*) See *per* FRY, L.J., 18 Q. B. D. at p. 564 ; *per* BOWEN, L.J., [1891] 1 Q. B. at p. 443.

(*u*) *St. Leonard Shoreditch Vestry* v. *London County Council*, [1895] 2 Q. B. 104.

(*x*) *Stratton* v. *M. B. W.*, *supra*, L. R. 10 C. P. at p. 89.

(*y*) See *e.g. Hackney Borough Council* v. *Metropolitan Asylums Board*, *supra*, p. 54.

(*z*) See *e.g. Mitchell* v. *Worksop Union*, *supra*, p. 58.

promoters ; and continues until the works in the rating area are completed and in use, and until any lands there taken which do not form part of the completed works have again become rateable. The liability thus ceases as regards highways when they are open to the public, though they will not again be rated (*a*), but it continues as regards surplus lands until these are rateably occupied (*b*). The amount of the deficiency is to be determined separately for the period of each rate current during the continuance of the liability (*c*) ; the actual amount due for each such period will be the excess as above calculated (*d*) multiplied by the rate in the pound. The amount due in respect of several such periods may be recovered in a single action (*e*).

(*a*) *Stratton* v. *M. B. W.*, *supra*, p. 66.

(*b*) The *Bristol* case, *supra*.

(*c*) *Ibid.*, 18 Q. B. D. at p. 564 ; as to entry in the valuation list, *vide infra*, p. 119 ; and as to the period of a rate, *vide supra*, p. 10.

(*d*) *Supra*, note (*c*).

(*e*) *Stratton* v. *M. B. W.*, *supra*.

CHAPTER III

OWNERS MADE LIABLE FOR RATES

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Liability of owners instead of occupiers.—The provision of the Rating and Valuation Act, 1925, has already been considered (*a*), under which a building of a certain class, though occupied in parts, may be entered in the valuation list as a single hereditament; where this has been done, the person who receives the rents for the various parts is treated as the occupier of the whole and rated accordingly.

Section 23 applies, however, only to a somewhat limited class of buildings. Provisions for making owners liable, instead of the occupiers, for rates made in respect of small hereditaments, which are separately entered in the valuation list (*b*), are made in s. 11. These provisions will (on the first new valuation list made under the Act coming into operation) supersede

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(*a*) S. 23, *supra*, p. 38.

(*b*) The question what constitutes a separate rateable hereditament is considered in Chap. II, *supra*, p. 55.

those familiar enactments (*c*) in earlier general Acts under which the "compounding" system has hitherto been carried on; but any provisions for the rating of owners instead of occupiers contained in any local Act applying to a particular rating area, may be continued in force for that area by a specific resolution of the rating authority; in the absence of such a resolution, these also will be superseded on that date (*d*).

There is nothing in s. 11 to confine its operation to dwelling-houses; but in practice the great majority of the hereditaments to which its provisions are applied will probably be of this nature. The rent must be payable or collected at less than quarterly intervals; and most of the hereditaments concerned will probably, in the future as in the past, be let on weekly tenancies. The liability to pay the rates may be placed upon the owners either compulsorily or by agreement.

Owners who are rated under sub-s. (1), or are bound by an agreement made under sub-s. (2), have the same rights of objection and appeal, etc., as occupiers; and the ordinary rights of the occupiers in these matters appear to be concurrently preserved (*e*).

Compulsory rating of owners.—When the rating authority desire to rate the owners compulsorily, they must by resolution define the class of hereditaments to which the compulsion is to extend. This class must not include any hereditament the rateable value of which, generally, exceeds £13; in the county borough of Liverpool, exceeds £16 5*s*.; or, in any area in which

(*c*) Poor Rate, etc., Act, 1869, 32 & 33 Vict. c. 41, ss. 3, 4; Public Health Act, 1875, 38 & 39 Vict. c. 55, s. 211 (1), (*a*).

(*d*) Act of 1925, s. 11 (10). As to the date, *vide infra*, p. 110.

(*e*) S. 11 (8); as to these rights, see Chaps. XIII.—XVI.

on December 22, 1925, any higher limit than £13 was in force for the purposes of s. 3 of the Poor Rate Assessment and Collection Act, 1869, exceeds that limit (*f*). Within those respective limits, the maximum rateable value of the hereditaments to be thus rated is to be fixed by the rating authority and stated in the resolution. Again, the class must not be so defined as to include any hereditament the rent of which becomes payable or is collected at quarterly or longer intervals; the resolution must indicate whether hereditaments are to be included for which the rent becomes payable or is collected weekly, fortnightly, or monthly. The class may include hereditaments (within the limits of value imposed by the resolution) occupied free of rent, such as cottages belonging to an employer and let to a servant (*g*). If the authority define the class, they must by the same resolution direct that in the case of *all* hereditaments in their area which are within the class defined at the time when the rate is made (*h*), and which do not consist of agricultural land (*i*), the owners shall be rated instead of the occupiers. Such

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(*f*) Act of 1925, s. 11 (1), proviso: read with Act of 1869, s. 3, and Rent Restrictions Act, 1920, 10 & 11 Geo. 5, c. 17, s. 16 (1). If the higher limit was substituted in s. 3 of the Act of 1869 by a local Act or Order passed before the Act of 1920, the amount specified in the Act or Order increased by 25 per cent. (by virtue of s. 16 (1) of the Act of 1920) was the limit in force on December 22, 1925.

(*g*) Act of 1925, s. 11 (1). See also sub-s. (11). Cf. *Smith* v. *Seghill Overseers* (1875), L. R. 10 Q. B. 422, *supra*, p. 46. The provision does not apply where the owner is rateable because he occupies by a servant, *vide supra*, p. 45.

(*h*) *Norwood Overseers* v. *Salter*, [1892] 2 Q. B. 118.

(*i*) Defined in s. 68 of the Act of 1925, read with Agricultural Rates Acts, 1896, 59 & 60 Vict. c. 16, s. 9, and 1923, 13 & 14 Geo. 5, c. 39, s. 16, see Appendix. The resolution would appear to apply to a hereditament which includes, but does not "consist of," agricultural land, *e.g.* a cottage let with a garden exceeding ¼ acre.

a resolution will remain in force until it has been rescinded by resolution; the rescinding resolution should specify the date on which the rescission is to take effect, which must be the date on which the period of a rate expires (*k*).

The original resolution may also fix a date later than half the period of the rate or instalment (*l*), before which the rate or instalment must be paid, so as to enable the owner to earn the 10 per cent. allowance.

For every rate made during the continuance in force of the resolution, the owners of all the hereditaments to which it applies are to be rated. If the owner pays before the expiration of half the period of the rate or instalment, or before any later date fixed by the resolution, he is entitled to an allowance of 10 per cent.; this percentage is fixed by the section, and the rating authority cannot vary it.

If the rating authority itself is the owner of any such hereditaments, it is to be rated (with the right to an allowance) like every other owner. And where this is the case, an occupying owner of a hereditament within the limit of rateable value specified in the resolution, who pays his rate by the time fixed as above, is entitled to an allowance corresponding to the amount of the allowance passed on by the rating authority to its tenants; this additional allowance is not to be less than 5 per cent. of the whole amount due, unless the rating authority prove that they have passed on less than that percentage to their tenants (*m*). Apart from this

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(*k*) Act of 1925, s. 11 (3), 2nd para. As to the period of a rate, *vide supra*, p. 10.

(*l*) *Vide supra*, p. 11.

(*m*) S. 11 (1), 3rd para. (*b*).

provision, an owner who is himself in occupation of the hereditament gets no allowance (*n*).

Where the rating is compulsory, the owner is not liable for rates in respect of any hereditament for any period during which it is unoccupied (*o*); he merely stands in the place of the occupier, and rates are recoverable from him in the same manner (*p*). Lists of occupiers, etc., must be furnished (under penalty) when required by the rating authority (*q*). In any case, where by the agreement of tenancy, the occupier is liable to pay the rates, he is liable to reimburse the owner the amount which the latter has actually paid to the rating authority (*r*). Though the rating of the owner is compulsory, he merely stands in the place of the occupier for this purpose; the occupier's name is entered in the rate-book and he is deemed to be rated for franchise purposes (*s*). Although the rates are recoverable from the owner (*t*), if he fails to pay, the occupier may pay the rates and deduct the amount from his rent (*u*), and distress may be levied upon the occupier's goods under certain conditions (*x*). Owners are obliged (under penalties) to furnish lists

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(*n*) He is rateable as occupier, and is not within the definition in s. 11 (11); cf. *Kensington Borough Council* v. *Allen*, [1926] 1 K. B. 576.

(*o*) *Vide supra*, p. 9; and as to empty houses, *vide* p. 57.

(*p*) S. 11 (4); see note (*f*), p. 76, *infra*. As to proceedings for recovery, see Chap. XVII.

(*q*) Sub-s. (6).

(*r*) Sub-s. (9).

(*s*) Poor Rate, etc., Act, 1869, ss. 19, 7, incorporated by Act of 1925, s. 11 (7).

(*t*) See note (*p*).

(*u*) Act of 1869, s. 8; Act of 1925, s. 11 (7).

(*x*) Act of 1869, s. 12; Act of 1925, s. 11 (7).

of occupiers and other particulars (*e.g.* as to periods of non-occupation) when demanded by the rating authority (*y*).

The person who is to be rated as "owner" while a resolution under sub-s. (1) is in force, is the person who is entitled to receive the rent; or where the hereditament is occupied rent-free (*a*), the person who permits it to be so occupied; for the purpose of furnishing particulars, "owner" includes a person who would receive the rent of an unoccupied hereditament, if it were occupied (*b*).

Agreements with owners to pay or collect rates.—Whether a resolution under sub-s. (1) is in force or not, a rating authority may make agreements with owners—that is, with the persons entitled to receive rents for hereditaments which are occupied, or who would be so entitled if the hereditaments were occupied—to pay or collect the rates (*c*). These agreements may be of three kinds: first, an agreement that the owner will pay the rates whether the hereditament is occupied or not, in which case the maximum allowance is 15 per cent.; secondly, an agreement that he will pay the rates chargeable so long as the hereditament is occupied, in which case the maximum allowance is $7\frac{1}{2}$ per cent.; and thirdly, an agreement that he will collect the rates due from the occupier on behalf of the authority, in which case the maximum allowance is 5 per cent. The actual percentage to be allowed is

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(*y*) Act of 1925, s. 11 (6).
(*a*) *Vide supra*, p. 71.
(*b*) Sub-s. (11).
(*c*) S. 11 (2), (11).

fixed separately by each agreement, within the maxima above stated ; the agreement must also specify the dates by which the rates must be paid, in order to earn the allowance. If a resolution is in force under sub-s. (1), only an agreement of the first kind will in practice be made (at any rate as regards hereditaments of the class defined in the resolution) ; and it will not pay an owner who is rateable under such a resolution to undertake to pay the rates for unoccupied hereditaments, unless he gets a larger allowance than 10 per cent. in respect of both occupied and unoccupied ; any allowance agreed upon is to be substituted for the 10 per cent. allowance fixed by sub-s. (1).

Where the agreement is merely to collect rates on behalf of the authority, the owner is only liable for a portion of the rates due which corresponds to the proportion of the rent and rates payable to him which he has been able to collect ; any rent or rates due before the commencement of the agreement are to be left out of account, unless the agreement provides otherwise (*d*).

Any of these agreements may be made applicable to hereditaments without limit of value, provided that they are (when occupied) let at rents, and that these become payable or are collected at shorter than quarterly intervals. The agreement need not include all hereditaments of this class within the area which are owned by the person who makes the agreement. The agreement must be in writing, and is terminable by notice on either side, given before the period of any rate commences, and taking effect on the expiration of that period : an agreement is binding on a succeeding

(*d*) Sub-s. (5).

owner of any hereditament to which it applies, until terminated by notice (*e*).

Under any of these agreements, the rates may be recovered from the owner, in the same manner as if he was the occupier; this applies also to any agent of the owner's, who collects the rates (*f*). The occupier's name, however, appears in the rate-book (*g*); if the owner fails to pay the rates, the occupier may pay them and deduct them from his rent (*h*); and distress may be levied upon the occupier's goods, under certain conditions (*i*).

An owner who is bound by any such agreement is liable under penalties to furnish on demand lists of occupiers, statements of amounts that he has failed to collect from them, and other particulars that may be required by the rating authority (*k*).

Rates in connection with the Rent Restrictions Acts.—Under the Rent Restrictions Act, 1920, the landlord of a dwelling-house or separate dwelling to which that Act applies is permitted to demand an increase above the standard rent of an amount which (*inter alia*) includes any increase of rates payable by the landlord over the amount payable by him in respect of the period of the rate current on August 3, 1914, or the next period during which the house or dwelling was occupied (*l*).

(*e*) Sub-s. (3); as to the period of a rate, see p. 10.

(*f*) Sub-s. (4); as to proceedings for recovery, see Chap. XVII. It may perhaps be doubted whether the rates can be recovered from an agent, under an agreement of the first or second class above described, or where the rating is compulsory.

(*g*) Poor Rate, etc., Act, 1869, ss. 19, 7; Act of 1925, s. 11 (7).

(*h*) Act of 1869, s. 8; Act of 1925, s. 11 (7).

(*i*) Act of 1869, s. 12; Act of 1925, s. 11 (7).

(*k*) Act of 1925, s. 11 (6).

(*l*) 10 & 11 Geo. 5, c. 17, s. 2 (1) (*b*); s. 12 (2).

For the purpose of calculating this increase, the rates payable by the landlord must be taken to be the rates less the percentage allowed by s. 11 (1) of the Rating Act, 1925, where the landlord is rated as owner by virtue of a resolution under that sub-section, and less the percentage allowed by the agreement made under sub-s. (2) if such an agreement is in force with regard to the house or dwelling in question (*m*). This rule will apply, even though the landlord has forfeited the allowance by delaying to pay the rates.

Right of occupier to deduct rates.—It has been seen that where the owner is rated under s. 11 (1) of the Act of 1925, or is bound by an agreement under sub-s. (2), and fails to pay the rates, the occupier may voluntarily pay the rates and deduct them from the rent; if distress is levied on the occupier's goods, he may deduct against the rent the amount of the rates and the expense of distraint (*n*). Even where the owner is not rateable, and is not bound by any such agreement, the occupier of any rateable hereditament let to him for a term not exceeding three months, including a hereditament let on a weekly tenancy (*o*), who is himself rated as such occupier, may deduct the amount of rates paid by him when paying his rent (*p*).

In each of these cases, the payment of the rates effects a valid discharge of the rent to the same amount.

(*m*) *Nicholson* v. *Jackson*, [1921] W. N. 251; 90 L. J. K. B. 1121. As to these allowances, see pp. 72, 74, *supra*.

(*n*) Poor Rate, etc., Act, 1869, ss. 8, 12 (3), incorporated by s. 11 (7) of the Act of 1925. See Appendix.

(*o*) *Hammond* v. *Farrow*, [1904] 2 K. B. 332, *infra*, p. 301.

(*p*) Act of 1869, s. 1, which remains in force. By s. 2, such an occupier cannot be compelled to pay more than a quarter's rates at a time, *vide infra*, p. 301.

Liability of owner under local Acts.—Where under any local Act the owner is liable (in relief of the occupier) to pay or bear a portion of any rate without any commission or allowance, that liability is preserved by the Act of 1925 (*q*), and will not be affected by any resolution or agreement made under s. 11. A provision of this kind will be found in the Newcastle-upon-Tyne (Rates) Act, 1919, which directs that one-eighth of the consolidated rate levied under that Act shall be borne by the owner, the occupier in the first instance paying the whole rate, but being entitled to deduct out of his rent one-eighth of the rate paid (*r*).

(*q*) S. 64 (1) (*c*).

(*r*) 9 & 10 Geo. 5, c. LXIX, s. 10; *Slaytor* v. *Newcastle-upon-Tyne Assessment Committee*, [1926] 1 K. B. 172, *infra*, p. 135.

CHAPTER IV

EXEMPTIONS

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Exemptions applying to the general rate.—By virtue of the application to the general rate of the enactments relating to the poor rate (*a*), the various general exemptions applying to the poor rate are made applicable to the general rate. Any privilege and any provision for the making of a valuation on any exceptional principle is also preserved (*b*) and applied to the general rate as a whole, or to that part of it which represents the rate to which the privilege, etc., applied (*c*) ;

(*a*) Rating and Valuation Act, 1925, s. 2 (3).
(*b*) S. 64 (1) (*a*). (*c*) Sub-s. (1), proviso.

together with any exemption or privilege conferred by any local Act on the occupiers of any particular hereditaments, or on occupiers in any particular part of a rating area (*d*): a privilege of the latter kind is generally described as "differential rating." Exemptions under the Highway Act, 1835, s. 33, are also preserved (*e*).

Schemes are to be made for securing the continued operation of any such specific privilege or exemption existing in any rating area (*f*). But the fact that a scheme for this purpose has not been submitted or duly made cannot prevent the occupier of the hereditament concerned from obtaining any relief to which he is entitled in consequence of any such privilege or exemption. No scheme appears to be required for the purpose of any of the exemptions from poor rate arising under general enactments (*g*); but schemes will be required where these arise under local Acts.

Any privilege or exemption of a class mentioned in s. 64 (1) (*a*), (*b*) or (*c*) of the Act may be surrendered and extinguished in consideration of payment, by agreement between the rating authority and all persons interested (*h*); again, this does not appear to apply to exemptions under general enactments relating to poor rate.

Effect is given (by means of a reduction in rateable value) to the three-fourths exemption of agricultural

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(*d*) Sub-s. (1) (*b*).

(*e*) Sub-s. (1) (*e*), *vide infra*, p. 97.

(*f*) S. 64 (2), and 2nd Sched., Part III, paras. 2, 4, 7; para. 7 in effect gives a right of appeal to the Minister of Health, and ultimately to Parliament.

(*g*) This view is taken by the Minister of Health in Circular 717, dated July 31, 1926, para. 21.

(*h*) S. 64 (2), proviso.

land (which formerly applied both to poor rate and general district rate) as well as to a similar exemption conferred by the Act of 1925 for the first time on agricultural and market garden buildings (*i*).

Certain other exemptions which formerly applied with regard to the general district rate, and rates of a similar nature levied under local Acts, are also applied to the general rate by means of a reduction of rateable value (*k*).

For the sake of convenience, all the above exemptions and privileges will be considered in the present chapter, both those which entitle the occupier to complete immunity from the rate, and those which entitle him to have a lower rateable value entered in the valuation list, although the latter belong more logically to the discussion of rateable value (*l*).

Reference will also be made to certain partial exemptions applicable to the special rate (*m*).

The exemption of the Crown.—The Crown, and its servants when occupying premises on behalf of the Crown for the purposes of the Crown, are not rateable, because the Crown is not mentioned in the Statute of Elizabeth (*n*). This exemption extends to all premises occupied for the purposes of the general administration of the country, *e.g.* assize courts and police stations, although the occupier may be a local authority and the building may be provided and maintained out of local

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(*i*) Act of 1925, s. 22 (1) (*c*), and 2nd Sched., Part II, *infra*, p. 98.

(*k*) See last note.

(*l*) See Chaps. VI–XII.

(*m*) S. 3 (2).

(*n*) 43 Eliz. c. 2, applied by Act of 1925, s. 2 (3), s. 3 (2); *Mersey Docks* v. *Cameron*; *Jones* v. *Mersey Docks* (1865), 11 H. L. C. 443, *per* BLACKBURN, J., at pp. 463, 464; *per* Lord CRANWORTH at p. 508.

rates (*o*). It does not go beyond this; and occupation for any public purposes other than those of the Imperial Government is rateable, as has already been seen (*p*). Thus, in regard to county buildings, it is only to those parts that are used for the administration of justice that the exemption applies; those parts that are used for the administrative purposes of the county are in rateable occupation (*q*). Prisons are not rateable (*r*); and although reformatories and industrial schools have been held to be rateable, it may be doubted whether that view would be taken at the present day (*s*). The national museums are not rateable (*t*), nor is a toll-bridge constructed and occupied by the Commissioners of Works (*u*).

The occupation of premises for the purpose of the military forces of the Crown is not rateable (*x*); it makes no difference that a military officer (*y*) or a Territorial Association (*z*) is the tenant, if the tenancy is held on behalf of the Crown, and the premises are used solely for its purposes. Nor does the fact that the

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(*o*) *R.* v. *St. Martin's Leicester* (1867), L. R. 2 Q. B. 493, *supra*, p. 47; *Coomber* v. *Berks JJ.* (1883), 9 App. Cas. 61; the latter case was decided on a question of Sched. A income tax, but upon poor rate principles, and is therefore binding as regards the general rate.

(*p*) *Supra*, pp. 32–35.

(*q*) *Middlesex County Council* v. *St. George's Union*, [1897] 1 Q. B. 64; *Worcester County Council* v. *Worcester Union*, [1897] 1 Q. B. 480; *supra*, p. 33.

(*r*) *Gambier* v. *Lydford Overseers* (1854), 3 E. & B. 346, *supra*, p. 47.

(*s*) *Vide supra*, p. 33, notes (*i*), (*k*).

(*t*) *De la Beche* v. *St. James' Vestrymen* (1855), 4 E. & B. 385.

(*u*) *R.* v. *McCann* (1868), L. R. 3 Q. B. 141, 677; the decisions in *R.* v. *Temple* (1853), 2 E. & B. 160, and *R.* v. *Kneller Hall* (1858), 6 W. R. 605, where Government schools were held rateable, appear to be obsolete.

(*x*) *Lord Amherst* v. *Lord Somers* (1788), 2 T. R. 372; *R.* v. *Stewart* (1857), 8 E. & B. 360; *Wixon* v. *Thomas* (*No.* 2), [1912] 1 K. B. 690.

(*y*) *Lord Amherst's* case, *supra*.

(*z*) *Wixon* v. *Thomas* (*No.* 2), *supra*.

premises are used for residence make the occupation rateable, if the officer or other member of the forces who resides on the premises does so as an essential part of his duty (*a*). A similar remark applies to the residences of police officers (*b*). A practice of using premises for other than Crown purposes, like the use of a drill-hall for concerts, has been held to defeat the exemption (*c*).

If the Crown, or a Department of the Government, uses a few rooms in a house for purely governmental purposes, but enjoys these as a "lodger," and has not the control of the whole house, the exemption does not apply (*d*). And in the converse case, where the Crown grants the separate and uncontrolled use of an apartment in a Royal Palace, the grantee is rateable for that apartment (*e*).

In practice, the Crown makes contributions in aid of rates, in respect of hereditaments which are not rateable by reason of its occupation; but the contribution cannot be claimed as of right, nor can its amount be regulated, by the rating authority (*f*).

Under certain statutes, lands taken by the Crown are to be rated, on the rateable value prevailing at the time of acquisition (*g*); but these provisions are not of great advantage to the rating authority, because they

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(*a*) *R.* v. *Stewart*, *supra*; *Wixon* v. *Thomas* (*No.* 2). The present effect of this and other cases, which decide whether the occupation of a dwelling-house is that of the employer or the servant, is considered *supra*, p. 47.

(*b*) See last note.

(*c*) *Lewis* v. *Durham Union* (1904), 68 J. P. 220.

(*d*) *Smith* v. *St. Michael Cambridge* (1860), 3 E. & E. 383.

(*e*) *R.* v. *Ponsonby* (1842), 3 Q. B. 14.

(*f*) As to entry in the valuation list in respect of such hereditaments *vide infra*, p. 112.

(*g*) See *e.g.* Telegraph Act, 1868, 31 & 32 Vict. c. 110, s. 22.

cannot compel the Postmaster-General (or a Secretary of State) to pay rates (*h*). It has been held that this reduced standard of rateable value applies to premises acquired under such an Act, though let to a tenant who occupies them for private purposes (*i*).

Houses of ambassadors and others.—Ambassadors and ministers of foreign States, and members of foreign embassies and legations, and their servants, are not rateable for offices or residences occupied by them, because by the Diplomatic Privileges Act, 1708, their goods may not be distrained by process, and therefore they cannot be compelled to pay rates (*k*). It makes no difference that the person in question happens to be a British subject (*l*). But this immunity does not extend to an ambassador's servant who occupies the house in question as a lodging-house (*m*). Consuls and their staffs are liable to rates (*n*).

Churches and chapels. — Churches, chapels, meeting-houses or premises, or parts thereof, which are exclusively appropriated to public religious worship (of whatever religion or denomination) and duly certified (*o*) for its performance are not subject to rating (*p*). The receipt of pew-rents and other moneys in respect

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(*h*) *R.* v. *Postmaster-General* (1873), 37 J. P. 196.

(*i*) *St. Gabriel Fenchurch Overseers* v. *Williams* (1885), 16 Q. B. D. 649.

(*k*) 7 Anne, c. 12 ; *Parkinson* v. *Potter* (1885), 16 Q. B. D. 152.

(*l*) Unless the British Government has made a stipulation to the contrary ; *Macartney* v. *Garbutt* (1890), 24 Q. B. D. 368.

(*m*) *Novello* v. *Toogood* (1823), 1 B. & C. 554.

(*n*) In *Parkinson* v. *Potter*, *supra*, the person who claimed exemption was a consul-general ; but he was held not liable because there was evidence that he was an attaché to a legation ; but see *Musmann* v. *Engelke* (1927), 43 T. L. R. 685.

(*o*) Under the Places of Worship Registration Act, 1855, 18 & 19 Vict. c. 81, ss. 2, 3.

(*p*) Poor Rate Exemption Act, 1833, 3 & 4 Will. 4, c. 30, ss. 1, 2.

of premises or parts so appropriated does not affect the matter ; nor does any use made of any part of the premises, for Sunday or infant schools or the charitable education of the poor. On the other hand, the exemption does not cover a churchyard, or a burial-ground attached to a church ; these may be rateable, where fees are received for burials (*q*).

The habitual use of any part of the premises for concerts, lectures, etc., for which payment is taken, will defeat the exemption, at any rate as to any separate part so used ; for it is not exclusively appropriated to religious worship (*r*). It is essential that this should be public worship ; and therefore a college chapel is rateable, like a chapel in a private person's house (*s*).

Non-provided schools ; Sunday schools.—The schoolrooms, offices, and playground of a public elementary school not provided by the local education authority are not to be rated " except to the extent " of any profit derived by the managers of the school " from the letting thereof " (*t*). Such circumstances as are described in this exception must be rare in practice ; where they arise, it would appear that, though the managers are in rateable occupation, the rateable value (*u*) must be based on the rent that would be given

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(*q*) *North Manchester Overseers* v. *Winstanley*, [1908] 1 K. B. 835 ; [1910] A. C. 7, *supra*, p. 54.

(*r*) Cf. *Lewis* v. *Durham Union*, cited *supra*, p. 83.

(*s*) See *The Oxford Poor Rate* (1857), 8 E. & B. 184.

(*t*) Education Act, 1921, 11 & 12 Geo. 5, c. 51, s. 167 ; " elementary school " is defined in s. 170 (1) ; and by s. 27 (1) every elementary school which is conducted in accordance with the regulations of that sub-s. is a public elementary school ; regn. (*d*) involves compliance with the Day School Code ; cf. *Llangollen Parish Council* v. *Denbighshire County Council*, [1921] 3 K. B. 313. As to the word " provided," see s. 169 (2).

(*u*) See Chap. VI.

by a person who took a tenancy of the premises solely in order to make such profits as the managers actually derive from the occasional lettings in question. Such an estimate will not often result in more than a merely nominal sum.

The above provision leaves the teachers' residences in rateable occupation (*x*).

In the case of a Sunday school, and of a "ragged "school" (not coming within the definition of a non-provided public elementary school), the rating authority may, if they think fit, exempt the building, or the part of a building, used for the school (*y*).

Literature, science, and the fine arts.—A society instituted for the purpose of literature, science, or the fine arts exclusively is (provided it complies with certain conditions) entitled to exemption from the general rate in respect of land, houses, and buildings occupied by it solely for the purposes for which it is instituted (*z*). Music is included in "the "fine arts" (*a*).

It is not sufficient to bring a society within the Act that it is established chiefly for the purpose of promoting science, literature, or the fine arts. One of

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(*x*) *Per* Lord ALVERSTONE, C.J., in *Royal Patriotic Fund Commissioners* v. *Mayor, etc., of Wandsworth* (1903), 67 J. P. 311; the actual decision in that case does not apply under the present definition. The question whether the occupation is that of the managers or the individual teachers depends on the considerations stated, *supra*, p. 45.

(*y*) Sunday and Ragged Schools, etc., Act, 1869, 32 & 33 Vict. c. 40, see Appendix; *Bell* v. *Crane* (1873), L. R. 8 Q. B. 481. As to schools of either class held in churches, chapels, etc., *vide supra*, p. 45.

(*z*) Scientific Societies Act, 1843, 6 & 7 Vict. c. 36, s. 1, see Appendix.

(*a*) *Royal College of Music* v. *Westminster Vestry*, [1898] 1 Q. B. 809.

these must be its exclusive object (*b*). Thus, a society instituted for the purpose of furthering instruction in, and knowledge of, the subjects which concern a particular profession, is not entitled to the exemption, although these subjects may include certain branches of science (*c*). Again, a society whose object is general education is not within the Act, although science and literature are included in its scheme (*d*), nor a society whose object is religious (*e*). Still less so is a society whose objects include the amusement of its members, even though such amusement is of a literary, scientific, or artistic kind; and a concert society (*f*), the Zoological Society of London (*g*), and several societies with newspaper reading-rooms, have been held for this reason not to be exempt (*h*). In deciding such questions as the above, the Courts will not look only at the charter or other document by which the society is established; whatever is actually being done by it at

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(*b*) *Inland Revenue* v. *Forrest* (1890), 15 App. Cas. *per* Lord WATSON at p. 348; see also *per* Lord MACNAGHTEN at p. 352.

(*c*) *R.* v. *Cockburn* (1852), 16 Q. B. 480; *R.* v. *Institution of Civil Engineers* (1879), 5 Q. B. D. 48.

(*d*) *R.* v. *Pocock* (1846), 8 Q. B. 729; *Scott* v. *St. Martin-in-the-Fields Overseers* (1855), 5 E. & B. 558.

(*e*) Like the Religious Tract Society, *R.* v. *Jones* (1846), 8 Q. B. 719; the views expressed on this point were *obiter*.

(*f*) *R.* v. *Brandt* (1851), 16 Q. B. 462.

(*g*) *Marylebone Vestry* v. *Zoological Society* (1854), 3 E. & B. 807.

(*h*) *R.* v. *Gaskell* (1851), 16 Q. B. 472; *Russell Institution* v. *St. Giles Vestry* (1854), 3 E. & B. 416; *Purchas* v. *Holy Sepulchre Churchwardens, etc.* (1854), 4 E. & B. 156. There are indeed decisions to the contrary, but these are unlikely to be followed at the present day, see *Birmingham Churchwardens* v. *Shaw* (1849), 10 Q. B. 868; *Clarendon (Earl)* v. *St. James' Churchwardens* (1852), 20 L. J. M. C. 213; *Bradford Library* v. *Bradford Churchwardens* (1858), 1 E. & E. 88; *Liverpool Library* v. *Mayor, etc., of Liverpool* (1860), 29 L. J. M. C. 221, *vide* note (*p*) on p. 89, *infra*.

the time of the rate in question indicates the purpose of the society (*i*).

A purely scientific society, however, is within the Act (*k*); and so may a society be which holds exhibitions of pictures, though money is taken for admission and a commission is charged on pictures sold (*l*); and a society for the general advancement of the fine arts (*m*). On the other hand, a society whose objects include not only scientific enquiries, but also the preparation and sale of curative materials (such as antitoxins), is not within the Act (*n*).

Conditions attached to the exemption.—Apart from the purposes of the society, it must be supported wholly or in part by annual voluntary contributions, there must be a rule preventing it from distributing dividends, etc., in money to its members, and it must possess such a certificate as is indicated below (*o*).

The annual contributions must be voluntary contributions in the ordinary sense; in legal phrase, they must be "without consideration"; that is, they must be "a gratuitous offering, and not the price of an "advantage purchased by the contributor"; and, therefore, a society instituted for the purposes of the fine arts exclusively is not within the exemption, if a distribution of works of art is made annually in return for

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(*i*) *Purchas* v. *Holy Sepulchre, supra*, following *Purvis* v. *Traill* (1849), 3 Ex. 344.

(*k*) *St. Anne Churchwardens* v. *Linnean Society* (1854), 3 E. & B. 793, see below.

(*l*) *R.* v. *Manchester Overseers* (1851), 16 Q. B. 449.

(*m*) *Savoy Overseers* v. *Art Union of London*, [1896] A. C. 296, but see below.

(*n*) *Jenner Institute of Preventive Medicine* v. *St. George's Union* (1900), Ryde and Konstam, 242.

(*o*) Act of 1843, s. 1.

the subscriptions (*p*). Annual grants made by a Government Department and a county council have been held (by the King's Bench Division) to be "annual "voluntary contributions" (*q*); but such grants are certainly not within the ordinary meaning of that phrase, and it may be doubted whether the decision would stand if it came under review. The contributions must in part, at any rate, "support" the society, and must therefore be a substantial sum annually, though not necessarily a large percentage of the whole annual expenditure (*r*).

There must be a specific rule prohibiting the society from making any dividend, gift, division or bonus in money to its members (*s*); but such a rule need not prohibit the members from selling their shares (*t*), or prevent the assets from being distributed among the members in the event of a dissolution (*u*). The rule must, of course, be obeyed in practice; but payments to individual members for services rendered by them, *e.g.* as teachers employed by the society, do not defeat the claim to exemption (*x*).

(*p*) *Savoy Overseers* v. *Art Union of London*, [1896] A. C. 296; see *per* Lord HERSCHELL, at p. 310. It is for this reason that certain decisions mentioned in note (*h*) on p. 87, are not likely to be followed; some of these were considered in the case just cited.

(*q*) *Hornsey School of Art* v. *Edmonton Union* (1906), 70 J. P. 121; purporting to follow the decision of the K. B. D. in *Royal College of Music* v. *Westminster Vestry*, [1898] 1 Q. B. 304; but the point was not necessary to that decision, and was not referred to in the C. A., *ibid.*, 809.

(*r*) *Royal College of Music* case, *supra*, in K. B. D.

(*s*) Act of 1843, s. 1; *R.* v. *Jones* (1846), 8 Q. B. 719.

(*t*) *Bradford Library Society* v. *Bradford Churchwardens* (1858), 1 E. & E. 88; *Liverpool Library* v. *Mayor, etc., of Liverpool* (1860), 29 L. J. M. C. 221.

(*u*) *Birmingham Churchwardens* v. *Shaw* (1849), 10 Q. B. 868; *R.* v. *Manchester Overseers* (1851), 16 Q. B. 449.

(*x*) *Royal College of Music* v. *Westminster Vestry*, [1898] 1 Q. B. 809.

A certificate must be obtained from the Central Office of the Registry of Friendly Societies and filed at the quarter sessions having jurisdiction where the land is situate ; a fresh certificate must be obtained when the rules are altered (*y*). If the Central Office refuses a certificate, application may be made by the society to the county council (*z*) ; an appeal against the grant of a certificate by the Central Office lies to quarter sessions (*a*). But this certificate, though an essential preliminary to obtaining the exemption, is not conclusive (*b*) ; a rating authority which does not admit the claim may rate the society to any general rate (if the premises are included in the valuation list) (*c*) ; it is then for the society to establish its claim (*d*).

Premises covered by the exemption.—The exemption extends to " land, houses or buildings, or " parts of houses or buildings," belonging to the society, as owner or tenant, " and occupied by it for the trans- " action of its business and for carrying into effect its " purposes " (*e*). It has been seen that a society, which is in fact carried on for other purposes than those for

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(*y*) Act of 1843, ss. 2, 3, 4, read with Friendly Societies Act, 1896, 59 & 60 Vict. c. 25, s. 2 (1) (*c*).

(*z*) This appears to be the effect of s. 5 of the Act of 1843 read with s. 3 (xv) of the Local Government Act, 1888, 51 & 52 Vict. c. 41.

(*a*) Act of 1843, s. 6 ; this appeal does not appear to be transferred to the county council by the provision last cited. As to the conditions of appeal laid down in s. 6, see *R.* v. *Pocock* (1846), 8 Q. B. 729 ; *R.* v. *Stacey* (1850), 19 L. J. M. C. 177.

(*b*) *R.* v. *Phillips* (1848), 8 Q. B. 745.

(*c*) *Vide infra*, p. 105.

(*d*) The question whether a statutory exemption must be claimed in proceedings with relation to the valuation list, or can still be set up in an appeal against a rate after the first new valuation list made under the Act of 1925 has come into force, is considered *infra*, p. 283 ; as to a claim for a statutory exemption being made in distress proceedings, *vide infra*, p. 303.

(*e*) Act of 1843, s. 1.

which it was originally instituted, may lose the exemption as being no longer within the Act ; such a loss of exemption may also be put on the ground that the premises are occupied for other purposes than those for which the society is instituted (*f*). The whole hereditament must be occupied by the society for its own purposes ; the exemption is lost if a part of the premises is used by another scientific society or any other body (*g*), unless that part constitutes a separate rateable hereditament (*h*). The fact that servants of the society, such as a librarian and a porter, dwell upon the premises occupied by the society in order to carry out the duties of their offices, does not of itself defeat the claim to exemption (*i*).

Lighthouses, etc.—Lighthouses, buoys, and beacons, and all other premises or property belonging to or occupied by the Trinity House or the Board of Trade are exempt from rates (*k*). This exemption does not extend to lighthouses, etc., occupied by other statutory bodies (*l*).

Burial-grounds ; Light railways ; Canals, etc.—A burial-ground acquired under the Burial Acts is

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(*f*) See *Purvis* v. *Traill* (1849), 3 Ex. 344 ; *Purchas* v. *Holy Sepulchre* (1854), 4 E. & B. 156, *supra*, p. 87 ; *R.* v. *Royal Medical Society* (1857), 30 L. T. (O. S.) 133.

(*g*) *Earl of Clarendon* v. *St. James Westminster* (1852), 20 L. J. M. C. 213, *supra*, p. 87 ; *Jenner Institute* v. *St. George's Union* (1900), Ryde and Konstam, 242, *supra*, p. 88.

(*h*) *Vide supra*, pp. 35, 37, 55 ; *R.* v. *Manchester Overseers* (1851), 16 Q. B. 449 ; *St. Anne Churchwardens* v. *Linnean Society* (1854), 3 E. & B. 793.

(*i*) *Linnean Society's* case, *supra ;* as to occupation by a servant, *vide supra*, p. 45.

(*k*) Merchant Shipping Act, 1894, 57 & 58 Vict. c. 60, ss. 731, 634.

(*l*) *Mersey Docks and Harbour Board* v. *Llaneilian Overseers* (1884), 14 Q. B. D. 770 ; *vide supra*, p. 34.

not to be assessed to rates at a higher value than that at which the land was assessed at the time of acquisition (*m*). Certain light railways are constructed under orders which direct that, during a certain period, the railway shall not be assessed at a higher value than that at which the land would have been assessed if it had remained in the condition in which it was immediately before acquisition (*n*). A somewhat similar provision applies to property acquired by the Postmaster General under the Telegraph Act, 1868 (*o*).

Besides these provisions in general Acts, there are numerous provisions having somewhat similar objects contained in private or special Acts, especially Acts authorising the construction of canals. All these are provisions for the making of a valuation on an exceptional principle, and are consequently to be preserved by the Rating and Valuation Act, 1925, unless surrendered by agreement and upon payment (*p*). A provision of this kind may apply to an extension of the original undertaking, though it be not repeated in the Act authorising the extension (*q*) ; and may apply to all lands rateably occupied by the undertakers, whatever their title (*r*) ; it may continue to apply even after the canal is disused, so as to make the company remain rateable on the basis laid down, whereas if there were no such clause, their liability might have come to an

(*m*) Burial Act, 1855, 18 & 19 Vict. c. 128, s. 15 ; this does not apply to burial-grounds generally, see *Winstanley* v. *North Manchester Overseers*, [1910] A. C. 7, *supra*, p. 85.

(*n*) Light Railways Act, 1896, 59 & 60 Vict. c. 48, s. 5 (1) (*c*).

(*o*) 31 & 32 Vict. c. 110, s. 22, *supra*, p. 83.

(*p*) Act of 1925, s. 64 (1) (*a*), (2), proviso, *supra*, p. 80.

(*q*) *R.* v. *Monmouthshire Canal Co.* (1835), 3 Ad. & E. 619.

(*r*) *Regent's Canal Co.* v. *Hendon Overseers* (1856), 6 E. & B. 852 ; as to the rateable occupation of canal and other property on which tolls are earned, *vide supra*, pp. 26, 27.

end through their occupation being valueless (*s*). These provisions, however, usually have the effect of making the lands acquired rateable,—not, as in the general Acts above referred to, upon the stereotyped value of the lands as at the time of acquisition, but according to the value of the lands if they had continued in the same state as at the time of the passing of the special Act, or according to the value of adjoining lands, or adjoining lands and buildings. If the provision is of the former kind, the value is to be estimated at the time the rate is made according to any increase of the value of land in the district, omitting any factor of betterment due to the presence of the canal or other authorised works, so that the value of meadow or grass land may be taken as the measure (*t*) ; if it is of the latter kind—and this is the more common case—the value may also increase from time to time with the value of other land in the district, but the element of value due to the presence of the canal, etc., is not to be left out of account (*u*). Further, where the provision in question makes express reference both to land and buildings, the "land" of the undertakers (*e.g.* the bed of the canal) is to be rated at the value of land unbuilt upon in the vicinity, the "buildings" at the value of land with buildings (*x*). Such estimates are no doubt difficult to make, but it is clear that under any of the provisions in question

(*s*) *Glamorganshire Canal Co.* v. *Merthyr Tydfil Union* (1903), 67 J. P. 52.

(*t*) See *R.* v. *Bristol Dock Co.* (1841), 1 Q. B. 535.

(*u*) *R.* v. *Monmouthshire Canal Co.* (1835), 3 Ad. & E. 619 ; *R. v. Leeds and Liverpool Canal Co.* (1838), 7 Ad. & E. 671 ; *R.* v. *Glamorganshire Canal Co.* (1860), 3 E. & E. 186.

(*x*) *R.* v. *Grand Junction Canal Co.* (1859), 7 W. R. 597 ; *Grand Junction Canal Co.* v. *Hemel Hempstead Overseers* (1870), L. R. 6 Q. B. 173 ; *Regent's Canal Co.* v. *St. Pancras Assessment Committee* (1877), 3 Q. B. D. 73.

the value of the works as such will not be the measure of rateable value (*y*).

An Act passed while tolls were considered to be rateable, which exempts the undertakers from paying rates on their tolls and does not impose rateability on the land, has the effect of exempting the undertaking (*z*).

Provisions such as are considered above may be applicable to the general rate in rural and urban areas alike ; certain reductions given under the Act of 1925, to railways and canals, etc., in urban areas as to the general rate, and in rural areas as to the special rate, are considered below (*a*).

New Allotments.—A privilege somewhat similar to the above is given in the case of land which has commenced to be used for allotments after August 7, 1925. During the first three years of such user, the gross value of such land is not to be increased above the sum at which it stood in the valuation list immediately before the user as allotments commenced ; there is a provision for apportionment, where the allotment land has been separated out of a hereditament which had a single gross value in the list (*b*).

Other exemptions under local Acts.—Many local Acts contain provisions exempting lands or works from rates, and where these provisions (as they often do, especially in the case of early local Acts) apply to the poor rate, they will also apply to the general rate,

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(*y*) See *R.* v. *Regent's Canal Co.* (1827), 6 B. & C. 720 ; and the cases cited in the three preceding notes.

(*z*) *R.* v. *Calder and Hebble Navigation Co.* (1818), 1 B. & Ald. 263 ; tolls were held not to be rateable in *R.* v. *Nicholson* (1810), 12 East, 330, *supra*, p. 24.

(*a*) Pp. 101–104.

(*b*) Allotments Act, 1925, 15 & 16 Geo. 5, c. 61, s. 10 ; for other provisions as to the rating of allotments, see pp. 62, 99.

by virtue of the application to that rate of all enactments relating to the poor rate (*c*). A provision directing that land shall be "free from all taxes and assessments "whatsoever" (*d*), or exempting it from "any public "tax assessment or charge whatsoever" (*e*) is an enactment relating to the poor rate, and therefore to the general rate. So is a provision exempting land from all "parochial rates" (*f*), though the general rate is now to be levied for a rural or urban rating area, and not for a parish as such. It depends on the terms of the enactment whether the land is only to be exempted when occupied for a particular purpose (*g*), or whether the exemption applies to the land, however it is occupied (*h*). It may apply to land acquired subsequently to the passing of the exempting Act (*i*).

Enactments like the above will entitle the occupier of the hereditament concerned to exemption from the whole of the general rate (*k*). But there are other

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(*c*) Rating and Valuation Act, 1925, s. 2 (3); a modern example will be found in the Mersey Tunnel Act, 1925, 15 & 16 Geo. 5, c. cx, s. 41.

(*d*) *City of London Corporation* v. *Associated Newspapers, Ltd.*, [1915] A. C. 674; such a provision, indeed, applies to every future rate unless prevented from so doing by a provision of the Act under which the rate is levied, *Associated Newspapers, Ltd.* v. *City of London*, [1916] 2 A. C. 429.

(*e*) *R.* v. *Scot* (1790), 3 T. R. 602.

(*f*) *Whenman* v. *Clark*, [1915] 1 K. B. 548; [1916] 1 K. B. 94; the case arose on the Thames Conservancy Act, 1894, 57 & 58 Vict. c. clxxxvii, s. 289.

(*g*) *Vide supra*, pp. 23, 92; *R.* v. *Worcester Guardians* (1853), 1 W. R. 146.

(*h*) *Pontefract Assessment Committee* v. *Pontefract Park Trustees* (1898), 78 L. T. 738. Cf. *St. Gabriel Fenchurch Overseers* v. *Williams* (1885), 16 Q. B. D. 649, *supra*, p. 84.

(*i*) *Manchester Corporation* v. *Manchester Overseers* (1853), 2 W. R. 64.

(*k*) As to schemes for their preservation, *vide supra*, p. 80.

enactments in local Acts which do not relate to the poor rate, but to some urban rate which the urban authority had power to make, and which is now, with other rates, consolidated into the general rate (*l*). Privileges and exemptions conferred by enactments applying to such a rate will apply only to so much of the general rate as represents the rate to which the exemption originally applied (*m*); and schemes made under sub-s. (2) will doubtless provide what proportion of the general rate is to be borne by the occupier of the hereditament affected (*n*). Thus, the Towns Improvement Clauses Act, 1847 (*o*), may have been incorporated by the Acts under which the urban authority have hitherto levied rates, and s. 168 exempts (besides other hereditaments which enjoy exemption from poor rate) tithes, buildings exclusively used for the purposes of the gratuitous education of the poor or for public charity (*p*), and any building or land belonging to the urban authority (*q*). An institution at which pauper children were housed, boarded, and maintained as well as instructed has been held not to be a "building "exclusively used for the education of the poor," under an exempting provision in a local Act (*r*). It depends upon the provision in the local Act conferring the

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(*l*) Act of 1925, s. 2 (1), *supra*, p. 3.

(*m*) S. 64 (1), (*a*) (*b*), and proviso.

(*n*) *Vide supra*, p. 80; and cf. directions as to classes (3*a*) and (3*b*) in Part II of the 2nd Sched.

(*o*) 10 & 11 Vict. c. 34.

(*p*) See *Shaw* v. *Mayor, etc., of Halifax*, [1915] 2 K. B. 170; the same phrase, in a local Act authorising the levy of district rates, is discussed in *Hall* v. *Derby Sanitary Authority* (1885), 16 Q. B. D. 163.

(*q*) As to the partial exemption from poor rate for tithes, and the exemptions for schools and churches, *vide* pp. 61, 84, 85.

(*r*) *Hadfield* v. *Liverpool Corporation* (1899), 80 L. T. 566.

exemption, whether the subsequent passing of the Public Health Act, 1875, has taken it away (*s*).

Differential rating.—Provisions in local Acts or Orders for the establishment of differential rating in any particular part of a rating area are to be applied to the general rate (*t*); these provisions occur frequently in connection with extensions of boroughs, and are often to the effect that the occupiers of hereditaments in the added area shall pay only a certain percentage, or a certain number of pence in the pound, of the borough or general district rate. They rarely extend to the poor rate (*u*). Consequently, in most cases, they will be applied only to that portion of the general rate which represents the rate levied in the area to which the differential rating was originally applied (*x*). The privilege is usually limited to a period of years after the date of the Act or Order; and there is nothing in the Act of 1925 to extend any such limit.

The Highway Act, 1835.—Any exemption from rating under s. 33 of this Act (*y*) is applied (*z*) to that part of a general rate in a rural rating area which is raised for the highway expenses of the district council (*a*). In an urban rating area, this exemption will apply to that part of the general rate which is made in lieu of

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(*s*) This was held to be the effect in *St. Helen's Corporation* v. *St. Helen's Colliery Co.* (1883), 48 J. P. 39; the contrary was held in *L. & N. W. Rail. Co.* v. *Walsall Overseers* (1876), 35 L. T. 626; and *Bingley U. D. C.* v. *Midland Rail. Co.* (1899), 80 L. T. 725.

(*t*) Act of 1925, s. 64 (1) (*b*); cf. *Slade* v. *Bristol Overseers, infra*, p. 138.

(*u*) See *e.g. Whitehaven Harbour Commrs.* v. *Whitehaven Union* (1905), 70 J. P. 89.

(*x*) S. 64 (1), proviso; as to schemes, etc., *vide supra*, p. 80.

(*y*) 5 & 6 Will. 4, c. 50.

(*z*) By s. 64 (1) (*e*), and proviso, of the Act of 1925.

(*a*) *Vide supra*, p. 8; *North-Eastern Rail. Co.* v. *Dalton Overseers*, [1900] A. C. 345.

a highway rate formerly made by the rating authority (*b*); and where the highway expenses of that authority were formerly met out of a general district rate, the exemption would seem to apply to that portion of the general rate which is raised to meet those expenses (*c*).

The exemption applies to any property and the owners and occupiers thereof, where these have, previous to the passing of the Act of 1835, been legally exempt from the old "statute duty" of providing team work, or from highway rate (*d*). The exemption from highway rate may be proved by showing that a highway rate or contribution has never been levied on particular property, and that the owner or occupier is liable to repair a particular highway, either *ratione tenuræ* or because the property is situate in a part of the parish which has always maintained its own highways (*e*). But the existence of such an obligation to repair, taken by itself, is not sufficient evidence of a legal exemption from highway rate (*f*). If such an obligation has come to an end by the alteration of the highway, the exemption is also at an end (*g*).

Agricultural land.—The three-fourths exemption from rates conferred upon the occupier of agricultural land by the Agricultural Rates Acts, 1896 and 1923 (*h*),

(*b*) *Vide supra*, p. 3; and see note (*a*), p. 97.

(*c*) This question was argued, but not decided, in *Ferrand* v. *Bingley U. D. C.*, [1903] 2 K. B. 445. (*d*) Act of 1835, s. 33.

(*e*) *Freeman* v. *Read* (1863), 4 B. & S. 174; *Great Western Rail. Co.* v. *Denchworth* (1861), 25 J. P. 342.

(*f*) *R.* v. *Rollett* (1875), L. R. 10 Q. B. 469; *Ferrand* v. *Bingley U. D. C.*, *supra*.

(*g*) *Heath* v. *Weaverham Overseers*, [1894] 2 Q. B. 108.

(*h*) 1896, 59 & 60 Vict. c. 16; 1923, 13 & 14 Geo. 5, c. 39. These Acts are at present continued in force to March 31, 1928, by 16 & 17 Geo. 5, c. 49, s. 1 (2). Allowances are made from general rates in rural areas and from special rates, until the date of the first new valuation, s. 2 (3), proviso, s. 3 (2), *supra*, pp. 9–17.

and by the Public Health Act, 1875 (*i*), will be applied by means of a reduction in the rateable value upon which the rates are assessed (*k*). The net annual value of such land is reduced by 75 per cent. in order to arrive at the rateable value (*l*).

"Agricultural land" means, as in those Acts (*m*): any land used as arable, meadow or pasture ground only, cottage gardens exceeding $\frac{1}{4}$ acre or 40 poles, market gardens, nursery grounds, orchards, or allotments (including any allotment garden, *i.e.* an allotment not exceeding 40 poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family (*n*)); but "agricultural land" does not include land occupied together with a house as a park, gardens other than as aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse (*o*). This definition excludes buildings of every kind, and the sites of buildings (*p*); but certain classes of buildings are given a separate reduction (*q*).

A market garden must be carried on for the purpose

(*i*) S. 211 (1) (*b*), repealed as from the date of the first new valuation; Repeals, etc., Order, 1927, Sched., Part III.

(*k*) *Vide supra*, p. 9; as to entries in the valuation list, *vide infra*, p. 119.

(*l*) Act of 1925, s. 22 (1) (*c*); 2nd Sched., Part II, class (1); see also p. 80, *supra*.

(*m*) S. 68 (1), definition of "agricultural land."

(*n*) This inclusion of allotment gardens is not to carry with it any cottage garden within the above limit of area. A cottage means a house occupied as a dwelling by a person of the labouring classes, Act of 1896, s. 9.

(*o*) Act of 1896, s. 9; Act of 1923, s. 16 (*a*); read with Allotments Act, 1922, 12 & 13 Geo. 5, c. 51, s. 22 (1).

(*p*) Act of 1896, s. 5 (*c*); *Smith* v. *Richmond*, [1899] A. C. 448.

(*q*) See below.

of profit, and does not appear to include a private garden from which surplus fruit, vegetables, etc., are sold (*r*).

At the present day, the majority of "parks" are used as meadow or pasture, and some even as arable; where the land so used is occupied by a different person from the occupier of the house, the land is "agricultural land." But where "park" and house have the same occupier, it will be a question of fact whether the land is used only as arable, meadow or pasture ground, or whether it is "occupied as a park," that is, whether the main purpose of its occupation is to contribute to the residential or sporting amenities of the house. Similarly, in such cases as those of grouse-moors which are fed with sheep, the question of fact arises whether the sport is the "main" purpose for which the land is kept or preserved.

If any land over which sporting rights are exercised is agricultural land, and if the sporting rights are not severed from the occupation, or those rights are severed from the occupation and are not let (*s*), the net annual value of the land includes any element of value due to the existence of the sporting rights. Now that the partial exemption of agricultural land is given by way of reduction of net annual value as above stated, it seems that the whole of that value, including the value due to the sporting rights, must be reduced by 75 per cent. in order to arrive at the rateable value (*t*). Where the sporting rights are separately rated, there is no such reduction (*u*).

(*r*) Cf. *Bickerdike* v. *Lucy*, [1920] 1 K. B. 707.

(*s*) *Vide supra*, p. 64, notes (*r*), (*i*).

(*t*) See also the remarks as to entries in the valuation list, *infra*, p. 120.

(*u*) *Alton U. D. C.* v. *Spicer*, [1904] 1 K. B. 678.

Agricultural and market garden buildings.—There is also a 75 per cent. reduction of rateable value in the case of buildings occupied together with agricultural land, and of buildings being or forming part of a market garden ; the buildings must be used solely in connection with agricultural operations on the land or the market garden ; this reduction does not extend to farm-houses or other dwelling-houses (*x*). All the operations of a market garden would appear to be " agricultural " in the sense in which the word is here used (*y*) ; and the buildings used solely in connection with those operations will include glass-houses, cucumber-frames, vine-houses, and so on (*z*). Buildings occupied with or forming part of orchards, nursery-grounds, and allotments, and used solely in connection with their operation, are included, either because these are " market gardens " (*a*), or because they are expressly mentioned in the definition of " agricultural land " (*b*).

Reductions applicable to general rate in urban areas.—The occupiers of certain classes of hereditaments (besides agricultural land) were entitled to a three-fourths exemption from the general district rate made under the Public Health Act, 1875 (*c*), and from rates of a similar nature made under local Acts. The general rate in an urban area is levied in lieu of all such rates, as well as of the poor rate (*d*). Consequently

(*x*) Act of 1925, s. 22 (1) (*c*) ; 2nd Sched., Part II, class (2) ; as to agricultural land, see above. As to entry in the valuation list, *vide infra*, p. 119.

(*y*) Cf. the inclusion of " market gardens " under " agricultural land " in the Agricultural Rates Act, 1896, *supra*, p. 99.

(*z*) *Purser* v. *Worthing Local Board* (1887), 18 Q. B. D. 818.

(*a*) See the case last cited ; and cf. *Lowther* v. *Clifford*, [1927] 1 K. B. 130. (*b*) *Supra*, p. 99.

(*c*) 38 & 39 Vict. c. 55, s. 211 (1) (*b*) ; as to agricultural land, *vide supra*, p. 99. (*d*) Act of 1925, s. 2 (1), *supra*, p. 3.

an allowance (of a varying percentage) is made by way of deduction from net annual value before arriving at rateable value (*e*); where a consolidation of rates had been authorised by a local Act passed before the Rating and Valuation Act, 1925, the percentage fixed by that Act is taken (*f*); where that was not the case, the percentage is fixed by Order for each borough or urban district (*g*).

The classes of hereditaments in question are as follows:—First, tithes, tithe commutation rentcharge, and other payments in lieu of tithe, issuing out of any land (*h*). Secondly, any land used as a railway, the construction (*i*) of which was authorised by any Act for the public conveyance of passengers or goods (*k*); this description includes a tramway or light railway constructed under an Order made under the Light Railways Act, 1896 (*l*), as well as a railway described as a tramroad in the Act authorising its construction (*m*), but not a tramway constructed under the Tramways Act, 1870 (*n*); it is a question of fact to what portions of the railway undertaking the reduction is to be applied in each case: these portions are not restricted to the

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(*e*) S. 22 (1) (*c*) and 2nd Sched., Part II; as to entry in valuation lists, *vide infra*, p. 112. (*f*) 2nd Sched., Part II, class 3 (*b*).

(*g*) *Ibid.*, class 3 (*a*), and Part III; the percentages fixed are found in the Ascertainment of Rateable Values Orders, 1926 and 1927.

(*h*) *Vide supra*, pp. 60, 61.

(*i*) A Parliamentary power merely to use a railway will not suffice, *N. E. Rail. Co.* v. *Leadgate Local Board* (1870), L. R. 5 Q. B. 157.

(*k*) *Newport Dock Co.* v. *Newport L. B.* (1862), 2 B. & S. 708.

(*l*) 59 & 60 Vict. c. 48; *Wakefield Light Rails. Co.* v. *Wakefield Corporation*, [1908] A. C. 293.

(*m*) *Blackpool and Fleetwood Tramroad Co.* v. *Thornton U. D. C.*, [1907] 1 K. B. 568.

(*n*) 33 & 34 Vict. c. 78; *Swansea Improvements Co.* v. *Swansea Sanitary Authority*, [1892] 1 Q. B. 357; *Tottenham U. D. C.* v. *Metropolitan Electric Tramways, Ltd.*, [1913] A. C. 702.

actual running lines; they may include sidings, turntables, signal boxes, platforms (or parts of them) for passengers, goods or cattle, loading banks and ways, and even hoist houses, capstans and cranes; but not station buildings generally, goods warehouses, waiting-rooms or largely extended platforms for the convenience of passengers, nor station roofs, unless these are mere adjuncts of the lines or platforms beneath them (*o*). Thirdly, land used only as a canal or towing-path for a canal. Fourthly, any land covered with water, such as the reservoirs (*p*), filter beds and feeding channel of a water undertaking (*q*); or such as the basin of a wet dock (*r*), or an artificial bay cut in a river-bank with a pontoon moored and floating over it (*s*). Lastly, any woodlands, which term includes (*t*) land used for a plantation or a wood, or for the growth of saleable underwoods or for both such purposes, and not subject to any right of common (*t*).

Exemptions applying to special rates.—With the exception of the reductions dealt with under the

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(*o*) *South Wales Rail. Co.* v. *Swansea Local Board* (1854), 4 E. & B. 189; *Lancs. & Yorks. Rail. Co.* v. *Liverpool Corporation*, [1915] A. C. 152. Certain intermediate decisions are discussed in the latter case, but they are (as is there pointed out) not consistent with each other, and little guidance is to be obtained from them.

(*p*) *Southwark and Vauxhall Water Co.* v. *Hampton U. D. C.*, [1899] 1 Q. B. 273; [1900] A. C. 3.

(*q*) *East London Waterworks Co.* v. *Leyton Sewer Authority* (1871), L. R. 6 Q. B. 669; water mains and pipes are not "land covered with water," *R.* v. *Birmingham Waterworks Co.* (1861), 1 B. & S. 84.

(*r*) *Newport Dock Co.* v. *Newport Local Board* (1862), 2 B. & S. 708; a graving dock, which is only occasionally covered with water, is not included, *Mersey Docks Board* v. *Birkenhead Corporation*, [1916] 1 K. B. 695, *infra*, pp. 200, 201.

(*s*) *Smith's Dock Co., Ltd.* v. *Tynemouth Corporation*, [1908] 1 K. B. 315, 948.

(*t*) Act of 1925, s. 68; see also Rating Act, 1874, s. 3, *supra*, p. 19.

last heading, all the exemptions and privileges considered in this chapter are applicable to a special rate (*u*); for "all the provisions of the" Act of 1925 "relating to the general rate shall apply to a special "rate" (*x*). As in the case of the general rate, the basis upon which a special rate is assessed is the rateable value shown in the valuation list made under the Union Assessment Acts, 1862–1880, until the first new valuation list made under the Rating and Valuation Act, 1925, for the rural rating area concerned comes into operation; after that date, it is the rateable value shown in the valuation list made under the Act of 1925 (*y*). But until that date, the occupier of any agricultural land (*z*) is to pay a special rate in respect of one-fourth part only of the rateable value of the land (*a*). Moreover, the owner of any tithe or tithe rentcharge, and the occupier of any woodlands, land covered with water or used as a canal or as a towing-path for a canal or as a railway constructed under the powers of any Act of Parliament for public conveyance, is to be liable to pay in respect of one-fourth part only of the rateable value, both before and after the date of the first new valuation (*b*); for these various classes of hereditaments (other than agricultural land), when situate in rural areas, do not enjoy any reduction from net annual value in the calculation of their rateable value (*c*).

(*u*) Which can only be made in a rural area, *supra*, p. 16.

(*x*) S. 3 (2); including sub-s. (3) of s. 2, by which the enactments relating to the poor rate are applied, *vide supra*, p. 105.

(*y*) *Vide infra*, p. 105; and see s. 20 (1). (*z*) *Vide supra*, p. 99.

(*a*) Such an occupier thus obtains an abatement similar to that given by the Public Health Act, 1875, s. 230, in respect of a special expenses rate under that Act; see also Lighting and Watching Act, 1833, 3 & 4 Will. 4, c. 90, s. 33.

(*b*) S. 3 (2). For the meaning of these terms, *vide supra*, p. 102.

(*c*) As to entry in valuation lists, *vide infra*, p. 120.

CHAPTER V

THE VALUATION LIST; ITS CONTENTS AND EFFECT

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The valuation list.—The general rate is made (at a uniform amount per pound) on the rateable value shown in the valuation list for each hereditament in respect of which the rate is levied (*a*) ; so also are special rates, subject to the partial exemptions or reductions in rateable value applicable to certain classes of hereditaments (*b*). During the interval between April 1, 1927, and the date of the first new valuation, the general rate in a rural rating area (*c*), and the poor rate in an urban rating area (*d*), are made according to the rateable values shown in the valuation lists made under the Union Assessment Acts, 1862–1880, but subject to the reductions granted by the Agricultural Rates Acts, 1896 and 1923, and the Tithe (Rentcharge) Rates Act, 1899 (*e*).

(*a*) S. 2 (1). As to the effect of the Tithe (Rentcharge) Rates Act, 1899, *vide supra*, p. 61

(*b*) S. 3 (2), *supra*, p. 104. (*c*) *Supra*, pp. 16, 103.

(*d*) *Supra*, p. 6. The making, etc., of valuation lists under the Union Assessment Acts are not dealt with in this volume ; see Ryde on Rating, 5th edn. (*e*) *Supra*, pp. 61, 98.

After the date of the first new valuation, that is, the date on which the first new valuation list made under the Rating and Valuation Act, 1925, comes into force in any rating area or part of a rating area (*f*), that valuation list (and each succeeding valuation list in its turn) will be conclusive evidence of the rateable values of the several hereditaments included in it for the purpose of every general or special rate made while that valuation list is in force ; for this purpose amendments in the list made before the making of the rate are also conclusive (*g*) ; and in certain cases an amendment in the list will also have effect upon the rates current when the amendment is made (*h*).

In order to satisfy the requirements above summarised, a first new valuation list has to be made for each rating area, urban or rural—or where the rating area has been divided into parts, for each part—and succeeding new valuation lists have to be made at (speaking generally) five-year intervals (*k*). The authorities concerned, the form and contents of the list, and the general principles applicable will be considered in this chapter ; but it is thought that the provisions as to its preparation, revision, and amendment may be more conveniently grouped with those relating to rights of objection and appeal by ratepayers and authorities, and dealt with in the latter part of the volume, after the principles for estimating value have been discussed.

(*f*) Act of 1925, s. 68 ; as to division, see note (*k*) below ; as to the coming into force of the list, *vide infra*, p. 110. (*g*) S. 20 (1).

(*h*) S. 37 (10), *vide infra*, p. 251.

(*k*) S. 19 : a division into parts may be made by an Order of the Minister of Health, on the application of the rating authority made with the concurrence of the assessment committee, sub-s. (1), proviso (*b*). Such an order may be made before the first new valuation list, or any subsequent list, is made.

The authorities concerned.—The preparation of the list is entrusted to the rating authority for the rating area concerned (*l*); that authority has also certain powers with regard to the amendment of the list (*m*). In an urban rating area, the rating authority is the county borough, borough, or urban district council, as the case may be (*n*). A county borough or borough council may delegate their powers in this respect to a committee of their own number (*o*); an urban district council (not being a borough council) may delegate them to a committee consisting wholly of their own members, or partly of their own members and partly of other persons (*p*). In a rural rating area, the rural district council are the rating authority (*q*), and may appoint a committee for this purpose in the same way as an urban district council (*p*); but every parish council in the rating area, and every parish meeting of a parish which has no parish council, is entitled to appoint two persons to act as members of the rating authority, or of any such committee, in the exercise of powers and duties connected with the valuation list of the parish (or group of parishes under a single parish council) for which they are appointed (*r*). The persons so appointed must be local government electors (*s*), but not necessarily in the parish or rural district concerned.

(*l*) S. 25. (*m*) S. 37.

(*n*) S. 1 (1), *vide supra*, p. 7.

(*o*) S. 1 (3), read with Public Health Act, 1875, 38 & 39 Vict. c. 55, s. 200, the repeal of which by Local Government Act, 1894, 56 & 57 Vict. c. 73, 2nd Sched., does not apply to boroughs.

(*p*) Act of 1925, s. 1 (3), read with Act of 1894, s. 56 (1).

(*q*) Act of 1925, s. 1 (1), *vide supra*, p. 7.

(*r*) S. 1 (4); as to groups of parishes, see Act of 1894, s. 1 (1), proviso (*b*).

(*s*) For the qualification, see Representation of the People Act, 1918, 7 & 8 Geo. 5, c. 64, ss. 3, 4 (3).

The expenses incurred by a rating authority, as such, are met out of the general rate (*t*).

The assessment committee, who are entrusted with duties of giving directions with regard to the preparation of the list (*u*), of revising it when prepared (including the hearing of objections) (*x*), of approving it (*y*), and of keeping it corrected (*z*), are appointed for an assessment area (*a*). An assessment area may be a county borough, in which case it coincides with the urban rating area, and the committee is appointed by the county borough council ; but not less than one-quarter of the members are nominated by boards of guardians of unions wholly or partly comprised in the county borough, and not less than one-fifth are members neither of the county borough council nor of any of those boards of guardians (*b*). Where an assessment area is not coincident with a county borough, it is constituted by a scheme approved by the Minister of Health (*c*) ; such an assessment area may, and usually does, consist of more than one rating area ; it may include a county borough or county boroughs, and may extend into more than one administrative county. The members of the assessment committee are appointed (in numbers fixed by each scheme), by the county borough councils, borough councils, urban and rural district councils, whose rating areas are comprised in the assessment area ; and by the county councils and boards of guardians into whose jurisdiction the assessment area extends. The proceedings of an assessment

(*t*) And out of the poor rate, in an urban area during the interval before a general rate is made, s. 53 (4).

(*u*) Act of 1925, s. 25 (3). (*x*) S. 27. (*y*) S. 28.

(*z*) S. 37. (*a*) S. 17 (1). (*b*) S. 16 (1), s. 17 (3).

(*c*) S. 16 (2)–(10), s. 17 (4); *R.* v. *Minister of Health ; ex parte Wortley R. D. C.*, [1927] 2 K. B. 229.

committee are regulated by the First Schedule to the Act; they may sue and be sued in the name of their clerk; their minutes prove themselves, and are open to inspection by any ratepayer (*d*). Their expenses are levied by means of precepts levied on all the rating areas included on the assessment area, in proportion to the rateable value of each (*e*).

In each county, there is a county valuation committee which has certain duties of co-ordination (*f*), as well as powers of objection and appeal which may be exercised alone or in conjunction with any rating authority, assessment committee, or other county valuation committee (*g*); it also has powers for securing the amendment of current lists (*h*). This committee is a committee of the county council; the county council fixes its number, and appoints members from its own body as well as a representative nominated by the assessment committee of each assessment area which is comprised in the county, or extends into it (*i*). Regulations for the procedure of this committee are made by the county council, which receives reports of its proceedings, and controls its finance; in all other respects the committee acts independently of the council (*k*); its expenses are raised as general county contributions (*l*).

(*d*) 1st Sched., paras. 9, 6; s. 60. (*e*) S. 53 (1).

(*f*) S. 18 (2); power to require information is given by s. 40 (6).

(*g*) S. 18 (3); as to objection, see Chap. XIII, and as to appeal, see Chap. XV, *infra*. (*h*) S. 37 (1), *infra*, p. 246.

(*i*) S. 18 (1). Where a county borough is included in any assessment area which extends into the county, the county borough may appoint such number of members as may be agreed between it and the county council; County Valuation Committees Order, 1926, St. R. & O. 1926, No. 1502.

(*k*) S. 18 (4), read with Local Government Act, 1888, 51 & 52 Vict. c. 41, ss. 80 (3), 82 (1), (2).

(*l*) Act of 1925, s. 53 (2), read with Act of 1888, s. 68 (2).

The Central Valuation Committee is a body constituted for the whole of England and Wales, with the duty of making representations to the Minister of Health for promoting uniformity and removing inequalities in the system of valuation (*m*); these representations are circulated and published, but have no binding effect.

Dates of operation of the lists.—The first new valuation list made under the Act of 1925 for any rating area is (if made as a whole) to come into force on April 1, 1928, or April 1, 1929, according as may be determined by the assessment committee after consultation with the rating authority (*n*). But where an Order is made, dividing a rating area into parts for the purposes of a new valuation list, the Order also determines the years in which the first new valuation list for each part shall come into force; these may be different years (*o*).

The first new valuation list will (subject to alterations and additions) remain in force until it is superseded by the second (*p*). The second list is to come into force on April 1, 1932, April 1, 1933, or April 1, 1934, the year being determined as above stated (*n*). The second list will remain in force (subject as above) for five years, and the third list will come into force on April 1, 1937, 1938, or 1939 as the case may be. Succeeding lists will come into force at five-year intervals after those dates.

There is a somewhat obscure proviso (*q*) enabling

(*m*) Act of 1925, s. 57; Central Valuation Committee Scheme, 1926, St. R. & O. No. 1019. As to expenses, see s. 57 (3), and para. 8 of the Scheme.

(*n*) S. 19 (1), (2), read with sub-s. (3).

(*o*) Sub-s. (1), proviso (*b*); see note (*k*), *supra*, p. 106.

(*p*) Sub-s. (2).

(*q*) Sub-s. (1), proviso (*a*); a subsequent Order may direct a reversion to April 1.

the Minister of Health (on the application of the assessment committee) to make an Order substituting October 1 for April 1 as the date when a new valuation list is to come into force ; this power may, it would seem, be applied to any of the lists made under the Act of 1925, including the first. An Order for the division of a rating area as above described (*r*) may be made before any of the new valuation lists is made, and will govern the dates of coming into force of the next lists for the various parts, and consequently those of all subsequent lists.

Speaking generally, therefore, and subject to the possible variations above indicated, the first new valuation list in any rating area will come into force on April 1, 1928, or 1929, and the succeeding lists at five-year intervals ; but as will be noticed, apart from Orders made by the Minister, there may be an interval of only four years between the first and second lists for an undivided rating area, *e.g.* April 1, 1928, to April 1 1932.

The valuation list : form and contents.— The valuation list is to be in the prescribed form, with added columns for any additional particulars that the rating authority (or the assessment committee in giving them directions (*s*)) consider it necessary or desirable to record (*t*). A separate valuation list is made for each rating area, urban or rural (*u*), and for each of the parts into which any rating area is divided for this purpose by an Order of the Minister of Health (*x*). Further,

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(*r*) Proviso (*b*). (*s*) S. 25 (3) ; *vide infra*, p. 230.

(*t*) SS. 21 (1), 58 (1) ; Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rule 2. The form, (A), is scheduled to these Rules.

(*u*) S. 25 (1).

(*x*) Made under s. 19 1), proviso (*b*)) ; *vide supra*.

where the rating area comprises one or more parishes, or comprises any part of a parish being either a contributory place or an area subject to separate or differential rating, there is to be a separate and distinct portion of the valuation list for each parish and for such part of a parish (*y*).

Every hereditament in the rating area (or part) is to be entered in the list whether it is actually liable to the general or special rate, or whether it may become so (*z*); this includes hereditaments which are empty when the list is made; but while there is a total exemption applicable in respect of any hereditament (*a*), the only particulars to be entered are the names of owner and occupier, the description, the name or situation, and the estimated extent of the property (*b*). Those, however, which are covered by the Crown exemption (*c*), will also have a certain entry in the "rateable value" column (*d*).

The hereditaments may be entered in such order as the rating authority think convenient, except that tithes, land used as a railway, and the other hereditaments specified in class 3 of Part II of the Second Schedule are to be grouped after other rateable hereditaments in the parish or the part of a parish (*e*);

(*y*) Form of Valuation List Rules, rule 3, read with definition of "parish" in rule 1; as to contributory places, *vide supra*, p. 17; as to parts of parishes subject to separate rating, *supra*, pp. 5, 16; and as to differential rating, *supra*, p. 97.

(*z*) S. 21 (1), read with definition of "hereditament" in s. 68.

(*a*) See Chap. IV.

(*b*) Form of Valuation List Rules, rule 5, *columns* 7–11; see p. 114, note (*n*).

(*c*) *Supra*, pp. 81–84.

(*d*) Rule 4, proviso (*b*); rule 5, *columns* 7–11, proviso; s. 64 (3) (*b*); see p. 119.

(*e*) Rule 4, proviso (*a*); rule 2 (proviso). See "Reductions applicable to general rate in rural areas," *supra*, p. 101.

agricultural land and buildings in urban areas may conveniently also be grouped in this way (*f*); and hereditaments covered by the Crown exemption are to be entered at the end of the portion of the list relating to each parish or part of a parish (*g*).

The limits of a separately rateable hereditament have already been considered (*h*); but where premises which would otherwise constitute a single hereditament include any property of the above classes to which a special reduction of rateable value is applicable (such as "land covered with water" in an urban parish), that property should be entered as a separate hereditament in the valuation list (*i*).

Such a division is provided for in the case of an agricultural or market-garden holding, where there must be separate entries throughout the columns of the list for (*a*) the farm-house occupied with it by the farmer or other person carrying on agricultural or market-garden operations thereon; (*b*) the agricultural (which includes market-garden) land; (*c*) the agricultural or market-garden buildings, although all these are in the occupation of the same person (*k*). There must also in practice be a separate entry for any cottage used as a dwelling-house by a workman or labourer

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(*f*) By rule 2, proviso, the columns relating to these, and to hereditaments in class (3) may be omitted from any page of the list on which they are not required.

(*g*) Rule 4, proviso (*b*).

(*h*) *Supra*, pp. 55–57.

(*i*) Cf. Central Valuation Committee's Second Series of Representations, 1927, Resolution 45.

(*k*) Rule 5, columns (1)–(10*c*); and definitions in rule 1. "Agricultural land" is defined as in s. 68 of the Act, and "agricultural buildings" as in class (2) of Part II of the 2nd Sched.: see pp. 99, 101, *supra*. See also C. V. C.'s First Series of Representations, 1926, Resolutions 17–19.

employed on the holding (*l*), whether he or his employer is the rateable occupier (*m*).

The names of the occupier and of the owner, the description and the name and situation of every hereditament are to be entered in the appropriate columns (2–5); but the column for "estimated extent" (6) need not be filled up in the case of a dwelling-house or other building without land, or of any other hereditament where the rating authority does not consider it necessary, or where the estimated extent does not exceed ¼ acre; but the estimated extent of agricultural land and of woodlands must always be shown (*n*).

There is no column in the prescribed form for showing the class to which any hereditament included in Part I of the Second Schedule belongs (*o*), but such a column may be added, if thought desirable.

Cardinal principles.—In the preparation of a draft valuation list by a rating authority, and in the determining of objections and the general revision of the list by an assessment committee, there are two cardinal principles which it is essential to bear in mind. The first of these is that the value of each hereditament must be arrived at by means of an independent valuation; and the second, that the values of hereditaments of a single class (*e.g.* public houses, factories, residential property) must be fair and equal upon a comparison of the hereditaments within that class, and that the values of hereditaments of different classes must be fair and

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(*l*) There is no reduction of rateable value for such cottages, for all dwelling-houses are excluded from the definition of "agricultural buildings," and it is difficult to see why the definition of "farm-house" in rule 1 specifically excludes them; they must be entered in column 9.

(*m*) This question is considered, *supra*, pp. 45–48.

(*n*) Rule 5, *column* 6.

(*o*) *Vide infra*, p. 150.

equal upon a comparison between class and class. The same attention must be devoted to both these principles; no rigid formulæ may be applied which would produce equality at the expense of individual valuation; nor must the principle of equality be lost sight of, in the making of individual valuations (*p*).

A valuation list which contains values increased by a fixed percentage above the values shown for the same hereditaments in an existing valuation list, is an invalid list (*q*) It sins against the first of these principles, because to arrive at the values in such a way as the above is "to apply an arbitrary rule of thumb "to every property without considering either the situa- "tion of the property, its character or its age"; "this "is not making a real valuation" (*r*). The authority or committee has "fettered the discretion" given to it, if it seeks "to apply to a number of hereditaments, "which must be subject to all sorts of varying considera- "tions," an inflexible rule (*s*). The decision in *Stirk's* case on this point does not, however, depend upon the fact that the "rule of thumb" was applied to a number of hereditaments; it is equally illegal to arrive at the value of a single hereditament by a mere arithmetical calculation; thus, where the tithe rentcharge on a farm has been redeemed, it is not lawful to add to the existing rateable value of the farm a sum equivalent to the rateable value of the tithe rentcharge; the authority

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(*p*) The subject is differently treated in the Central Valuation Committee's Representations, 1st Series, 1926, Resolutions 5–13, 20, 27, see also 2nd Series, 1927, Appendix A; as to the powers and duties of that body, see Act of 1925, s. 57 (2), *supra*, p. 110. The observations in the text are intended to give the effect of the cases cited below.

(*q*) *Stirk & Sons, Ltd.* v. *Halifax Assessment Committee*, [1922] 1 K. B. 264. (*r*) *Ibid.*, *per* SANKEY, J., at p. 273.

(*s*) *Per* BRANSON, J., at p. 274.

or committee has to apply its mind to the question what, in the altered circumstances, is the rent that might be reasonably expected for the farm (*t*).

In *Stirk's* case (*u*), the valuation list was illegal also because it contravened the second of the principles above indicated. Mills and factories and certain other classes of commercial and industrial property had been increased in value, whereas residential property (other than that attached to business premises) was not included ; and the list was therefore rightly found by quarter sessions to be unfair and unequal. A somewhat similar selection had been made in a later case (*v*), and it was held to be a good contention, if proved, that the list " was bad in law as lacking in uniformity and as " not having been made according to law, in that " the [rating authority and assessment committee] had " arbitrarily selected business premises for revaluation " to the exclusion of residential house property . . . " notwithstanding a general increase in the value " of the latter class. There was no suggestion in *Hunter's* case that the hereditaments whose value had been increased had not been individually valued ; but their values had been brought up to present-day standards, while those of the hereditaments omitted had not.

Again (*x*), where in the course of a revaluation of (among other classes of hereditaments) the licensed properties in a parish, a number of licensed premises had been entered in the valuation list at increased values, while the remainder were left at their old values

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(*t*) *Twitchin* v. *Alton Union* (1924), 22 L. G. R. 482.

(*u*) *Stirk & Sons, Ltd.* v. *Halifax Assessment Committee*, [1922] 1 K. B. 264.

(*v*) *Hunter* v. *Swindon Assessment Committee*, [1922] 2 K. B. 630.

(*x*) *Double* v. *Southampton Assessment Committee*, [1922] 2 K. B. 213 ; see *per* Lord TREVETHIN, C.J., at pp. 224–225.

with the intention of entering them subsequently when the revaluation of the whole of those properties should be complete, the rate was held to be bad on the ground of inequality, because "it is a principle of the law of "rating that all properties of the same class must be "valued by the same method . . . [the assessment "committee] have no discretion to discriminate between "two properties of the same character." There was no question but that the revaluation of the individual properties in question had been carried out on proper principles.

All the four cases above summarised arose upon supplemental valuation lists made under the Union Assessment Acts, 1862–1880; but such lists when approved became part of the valuation lists in force (*y*); and there can be no doubt of the applicability of the principles laid down in those cases to valuation lists made under the Act of 1925 (*z*). Where a rating area is divided into parts for the making of valuation lists, and lists for the different parts are to come into force in different years, there is, it is true, an express provision to prevent inequality from being alleged so as to invalidate a list made for one of the parts, merely because the list that is to be made for another part is not to be made until a subsequent year (*a*). But the exception enacted for this particular case makes it all the clearer that, in general, inequality is a good ground of objection and appeal against a valuation list made under the Act. And this rule appears to extend to inequality as between two valuation lists, at any rate

(*y*) Act of 1862, 25 & 26 Vict. c. 103, ss. 24–27.

(*z*) These principles are much older than the Union Assessment Acts, see *R.* v. *Audley* (1700), 1 Const. 110.

(*a*) Act of 1925, s. 26 (2); see s. 19 (1), proviso (*b*), *supra*, p. 110.

where these are made for rating areas (or parts) which contribute to the expenses of the same authority (*aa*).

The principle that all properties of the same class must be valued by the same method has a corollary in the rule now established (*b*), that it is open to an objector or appellant to show that the valuation of his premises "is incorrect or unfair because certain other premises, "which correspond very closely to his, are assessed "at a different value." Evidence of the rateable value of a hereditament alleged to afford a true comparison with the hereditament under consideration is therefore admissible; it is for the assessment committee, or the quarter sessions court before which the evidence is adduced, to decide whether the two hereditaments are comparable; if so, a disparity in their assessments may be conclusive that the assessment objected to or appealed against is wrong.

The values to be entered.—The form of valuation list contains columns, (7), for the entry of gross value where required to be ascertained, (8), of net annual value where it differs from rateable value, and (9)–(11) of rateable value. The definitions of gross, net annual, and rateable value, the classes of hereditaments for which these values have to be ascertained, and the methods of ascertaining them, are considered in the succeeding chapters. But it should be stated here that the gross value (column 7) will only be ascertained and shown in the list for those hereditaments which are included in Part I of the Second Schedule to the Act, other than such as are covered by a total exemption (*c*). The net annual value

(*aa*) *Vide infra*, p. 236.

(*b*) *Pointer* v. *Norwich Assessment Committee*, [1922] 2 K. B. 471, see *per* ATKIN, L.J., at p. 477.

(*c*) S. 22 (1); s. 64 (3) (*a*); Form of Valuation List Rules, rule 5,

differs from rateable value, and will therefore be entered in column (8) (*d*), only in the cases of agricultural land, and agricultural and market-garden buildings in urban and rural areas (*e*); and in the cases of tithe, land used as a railway, land covered with water, and the other hereditaments in urban areas grouped in class (3) of Part II of the Second Schedule (*f*); all these receive a reduction from net annual value in arriving at rateable value.

A rateable value, however, must be shown in the appropriate column for every hereditament which is not covered by a total exemption (*g*); and where a hereditament is covered by the Crown exemption, the value on which the Government contribution is calculated is to be entered as representing the rateable value (*h*); so also is the value upon which the deficiency payment is calculated in the case of hereditaments taken by promoters of a statutory undertaking for the purposes of their works (*i*).

The rateable values of a "farm-house," or "agricul-" tural land" and of "agricultural buildings" (*k*) are to be shown in separate columns (10*a*, 10*b*, 10*c*) though

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columns 7–11. As to Part I of the 2nd Sched., *vide infra*, pp. 150–151; and as to the Crown exemption, *vide supra*, pp. 81–84.

(*d*) Rule 5, *column* 8.

(*e*) 2nd Sched., Part II, classes (1), (2), *supra*, pp. 89–101. Column 8 is not subdivided for this purpose as is column 10 (rateable value).

(*f*) *Vide supra*, pp. 101–103.

(*g*) Form of Valuation List Rules, rule 5, *columns* 9, 10 (*a*), (*b*), (*c*), and 11; *columns* 7–11.

(*h*) *Ibid.*, *columns* 7–11, and proviso; Act of 1925, s. 64 (3) (*b*); see pp. 81–84, *supra*.

(*i*) Rule 5, proviso; Act of 1925, s. 2 (7), applying Lands Clauses Act, 1845, s. 133; see pp. 65–68, *supra*.

(*k*) See notes (*k*), (*l*), *supra*, pp. 113, 114.

they may form part of one occupation (*l*). The rateable value of agricultural land which is entered in column 10 (c) should include any enhancement due to the value of sporting rights, where these are not severed from the occupation, and also (in the writer's view) where the rights are severed from the occupation of a tenant and are not let, even if the amount of the increase due to this fact is certified in the valuation list (*m*). A sporting right, severed and let, constitutes a separate rateable hereditament; and its rateable value should be entered in column 9 (*n*).

The rateable value of tithes, tithe rentcharge and other payments in lieu of tithes, of any land used as a railway constructed under the powers of any Act of Parliament for public conveyance or as a towing-path for a canal, any land covered with water, and any woodlands is to be shown in column 11, whether the list is for an urban or a rural rating area (*o*).

Where the rateable value of any hereditament

(*l*) As to the net annual value of these items, see note (*e*), *supra*; and p. 147, *infra*.

(*m*) As to the increase of value due to the presence of sporting rights and certification of the increase in certain cases, see p. 146, *infra*, and as to its effect on the partial exemption of agricultural land, see p. 100, *supra*. The Central Valuation Committee, however, recommend insertion of "the value of" a sporting right severed and not let in column 9, apparently whether the increase is certified under the Rating Act, 1874, s. 6 (1), or not; see their Representations, 2nd Series, 1927, Resolution 39.

(*n*) See pp. 63, 64, *supra*, and p. 147, *infra*.

(*o*) Form of Valuation List Rules, rule 5, *column* 11. The meaning of the terms used are considered, *supra*, p. 102. Where such hereditaments are in an urban area, their net annual value will also be entered in column 7, see above; where they are in a rural area, their net annual and rateable values are the same but they receive a partial exemption from a special rate. As to separate entry for any property of this class which would, but for the reduction, be included in another hereditament, *vide supra*, p. 113.

includes a fraction of a pound it is to be increased or reduced to the nearest pound; where the fraction is exactly 10*s.* it is to be disregarded (*p*).

Agreements as to valuation.—An agreement made between a ratepayer and an assessment committee that the ratepayer's hereditament should be assessed according to a particular method, though not binding for all purposes, is effective at least to this extent, that if either party takes advantage of it, he cannot at the same time depart from it in a point in which it is to his disadvantage. Thus, where an assessment committee had, by agreement with the colliery owners in its union, for many years arrived at the value of each colliery as a whole on a basis of tonnage output (*q*), it was held that they could not, in a valuation list in which a value was arrived at on that basis for a colliery, also insert a separate assessment for a new generating station belonging to the colliery (*r*). And a ratepayer, the gross estimated rental of whose hereditament had by agreement for many years been arrived at by a conventional addition to rateable value, could not afterwards treat that gross estimated rental as if it represented the result of an actual valuation (*s*).

Whether an assessment committee can agree with the ratepayer concerned to refer the matter of his

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(*p*) S. 22 (1) (*d*); this provision applies to net annual value only where it is the same as the rateable value, *i.e.* if there is a deduction between net annual value and rateable value, it is only the fraction ultimately remaining that is disregarded. See Central Valuation Committee's Representations, 2nd Series, 1927, Resolutions 36, 37.

(*q*) See p. 164, *infra*.

(*r*) *Davis* v. *Pontypridd Union* (1916), 80 J. P. 377.

(*s*) *Hendon Paper Works, Ltd.* v. *Sunderland Union*, [1915] 1 K. B. 763. The facts are stated in the text to illustrate the principle; but an exactly similar case could not arise under the Act of 1925.

objection (*t*) to arbitration, before they have determined it, is a point which has not been decided (*u*); but, in view of the opinions delivered in a recent case, it seems probable that such an agreement would not be held to go beyond the powers of the committee (*x*); if the agreement is valid, the figure fixed by the arbitrator will be conclusive (*x*).

(*t*) As to objection, see pp. 232, 234, *infra*.

(*u*) They cannot so refer it after they have decided the objection and finally approved the list; *Leicester Waterworks Co.* v. *Nuttall* (1878), 4 Q. B. D. 18.

(*x*) *L. & N. E. Rail. Co.* v. *Easington Union* (1925), 90 J. P. 39; see also the cases cited, *infra*, p. 301, note (*x*).

CHAPTER VI

GROSS VALUE; AND RATEABLE VALUE DERIVED THEREFROM

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Hereditaments for which a gross value is ascertained.—A gross value is to be ascertained, and the net annual and rateable values are to be derived therefrom (*a*)—for houses and buildings which are not mills, manufactories, or premises of a similar character used wholly or mainly for industrial purposes (*b*), and

(*a*) As to entry of these values in the Valuation List, see pp. 118–121.
(*b*) Act of 1925, s. 22 (i) (*a*) ; 2nd Sched., Part I, and Note thereto.

which are not hereditaments valued as part of any railway, dock, canal, gas, water, electricity or other public utility undertaking (*c*); as well as for land valued together with such buildings as one hereditament, and for uncovered land, provided the land is not used wholly or mainly for industrial purposes, or valued as part of a public utility undertaking; and for agricultural land (with similar exceptions, should either of these apply). But if any of the above hereditaments is occupied by or on behalf of the Crown, or is otherwise exempt, no gross value is to be determined for it (*d*).

Definition of gross value.—"Gross Value" means "the rent at which a hereditament might reasonably be expected to let from year to year if the tenant "undertook to pay all usual tenant's rates and taxes, "and tithe rentcharge, if any, and the landlord undertook to bear the cost of the repairs and insurance, "and the other expenses, if any, necessary to maintain "the hereditament in a state to command that rent" (*e*).

(*c*) The language of the note just cited does not apply to such hereditaments as a railway hotel or refreshment-room, which are not valued as part of the railway undertaking (see *North Eastern Rail. Co.* v. *York Union*, [1900] 1 Q. B. 733); for such, a gross value will have to be ascertained, and the scale of deduction applied. As to the classes of property for which only a net annual or rateable value is estimated, *vide infra*, p. 153.

(*d*) S. 64 (3) (*a*); Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rule 5, *columns* 7, 7–11, *vide supra*, pp. 83, 119.

(*e*) Act of 1925, s. 68. Save that in "rateable value," the burden of repairs, etc., is assumed to be undertaken by the tenant, the above definition is based on, and has the same meaning as, the definitions of "rateable value" in the Parochial Assessments Act, 1836, 6 & 7 Will. 4, c. 96, s. 1, and of "gross estimated rental" in the Union Assessment Act, 1862, 25 & 26 Vict. c. 103, s. 15; these are identical in their effect with the definitions of "gross value" and "rateable value" in the Valuation (Metropolis) Act, 1869, 32 & 33 Vict. c. 67, s. 4; *London County Council* v. *Erith*, [1893] A. C. pp. 587–8; *Poplar Assessment Committee* v. *Roberts*, [1922] 2 A. C. 93. The decisions to be cited in this

There is a proviso to this definition, which relates only to flats, tenements, etc., let at a " rent " which includes payment for services rendered by the landlord, and will be considered in that connection.

The rent reasonably expected.—The rent at which a hereditament might reasonably be expected to let from year to year is by no means necessarily the actual rent (*f*). Where the hereditament is occupied by the owner, there is of course no rent reserved or paid; where it is not so occupied, the rent in fact reserved and paid is rarely a rent from year to year, except perhaps in the case of ordinary farm tenancies. A lease entered into some years before may reserve a rent lower than that which would be agreed by landlord and tenant at the time of the rating valuation (*g*); or for some other reason a holding, such as a farm, may be in fact rented below its true letting value (*h*). Or again, the actual agreement of tenancy may have been made in consideration of a premium, or of the surrender of an older lease, or of a covenant by the tenant to erect or improve buildings, and so on (*i*), in which case the annual equivalent of the premium, of the interest surrendered, or of the expenditure under

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and the succeeding chapters as bearing on the definitions of " gross " and " net annual value " in the Act of 1925, were (with the exception of a few anterior to 1836) pronounced upon one or other of the above definitions.

(*f*) *Hayward* v. *Brinkworth Overseers* (1864), 10 L. T. 608; see the dicta on this point in *R.* v. *School Board for London* (1886), 17 Q. B. D. 738, at p. 740, and in *Poplar Assessment Committee* v. *Roberts*, [1922] 2 A. C. 93, at pp. 103, 107–8, 116, 118. In neither of the last-named cases was the actual rent put forward as the measure of value.

(*g*) *R.* v. *Skingle* (1798), 7 T. R. 549.

(*h*) *Hayward* v. *Brinkworth Overseers*, *supra*.

(*i*) *E.g.* a covenant by the tenant of a sewage farm to take the sewage, etc.; *Davies* v. *Seisdon Union*, [1907] 1 K. B. 630; [1908] A. C. 315.

the covenant may have to be added to the rent reserved in order to arrive at the true rent. And there are, of course, cases where the agreement by which the rent is fixed does not embody a bargain as between strangers, and therefore affords very little guidance, as where a lease is granted to a son by a father, or to a company by a leading shareholder. In spite, however, of the above possibilities it is difficult to disregard an actual rent fixed under a fairly recent agreement which results from an ordinary bargain; and in practice, such a rent is constantly accepted as a basis of gross value. If the rent is reserved by a "repairing lease," that is, if there is a covenant by the tenant to do the repairs, insurance and maintenance (or a part of the repairs, etc.), a sum is added to represent the estimated annual cost of carrying out the covenant, because by the definition of gross value, the landlord is assumed to undertake the cost of these matters.

Where evidence of such an actual rent as the above is lacking, or is inconclusive, recourse is had to various methods of estimation, which will be considered below.

Rent from year to year; prospect of continuance.—By the definition, "gross value" means a rent upon a letting "from year to year." If this phrase were rigidly applied, no rent payable under a tenancy for a term of years could ever be taken as indicating gross value; so that where a rent so payable is adopted for this purpose, this requirement of the definition is in effect disregarded. And, as a matter of law, where an estimate of rent has to be made, the letting is assumed to be a letting from year to year with a prospect of continuance. For, even if the hereditament assessed is a dwelling-house of which the owner is in occupation, it is not necessary to assume

a tenant who will be disturbed at the end of a year (*k*); and where the hereditament is such that no one would take a tenancy of it for a year only, the rent is to be calculated on a reasonable expectation that it will last longer, though it is liable to be put an end to by notice (*l*).

"**The hypothetical tenant.**"—Value is not a concrete thing; nor is there any rule by which it can be exactly measured. It must always be estimated; and the value of anything at any given time depends on the conditions of the market for that thing at that time. In order to estimate the rent at which the hereditament might be reasonably expected to let to a tenant from year to year with a prospect of continuance (*m*) (subject to the undertakings by the tenant as to payment of rates, etc., and by the landlord as to payment for repairs, etc., which are predicated by the definition of gross value (*n*)), it is necessary to ascertain what is the market for such a tenancy at the time of valuation; and to assume such a market (if none exists) though it may contain only one bidder, the actual owner (*o*). Every tenancy agreement made between strangers is the subject of negotiation between the prospective landlord and tenant, the tenant taking care to pay not more than he reasonably considers he can afford, the landlord to obtain as much as he can reasonably expect to get. The definition of gross value rests on the assumption that such a negotiation takes place;

(*k*) *Clive* v. *Foy Overseers* (1875), 39 J. P. 774.

(*l*) *Great Eastern Rail. Co.* v. *Haughley Overseers* (1866), L. R. 1 Q. B. 666; *R.* v. *South Staffordshire Waterworks Co.* (1885), 16 Q. B. D. 359, *infra*, pp. 184, 217.

(*m*) *Vide supra.*

(*n*) *Supra*, p. 124.

(*o*) *Vide infra*, p. 129.

in applying it, it is necessary to consider " all the exist- " ing circumstances . . . which would reasonably in- " fluence the parties to a negotiation for a tenancy as " to the amount of rent to be asked or given " (*p*). The supposed tenant who is a party to the bargain is commonly called the " hypothetical tenant," the supposed landlord the " hypothetical landlord." The former expression is used more frequently than the latter, because where an actual rent does not exist, or, if it exists, affords insufficient guidance, the first consideration is, doubtless, how much rent could a tenant reasonably afford to pay for the advantages of the hereditament (including its capabilities for the making of profits) (*q*), remembering that he has to pay tenant's rates and taxes, tithe rentcharge, if any, and other outgoings. Nevertheless the hypothetical landlord cannot be left out of sight as a party to the bargain ; to do so would be to reduce the inquiry, and the definition of gross value, to an absurdity ; for a hereditament cannot be reasonably expected to let at an adequate rent, unless the landlord is assumed to require such a rent (*r*).

(*p*) *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18, *per* Lord DENMAN, C.J., at p. 36 ; see also *per* WIGHTMAN, J., in *R.* v. *West Middlesex Waterworks Co.* (1859), 1 E. & E. 716, at pp. 721, 722 ; *per* BLACKBURN, J., in *Talargoch Mining Co.* v. *St. Asaph Union* (1868), L. R. 3 Q. B. 478, at pp. 485, 486 ; in *Mersey Docks* v. *Liverpool Overseers* (1873), L. R. 9 Q. B. 84, at pp. 96, 97 ; and in *R.* v. *London and North Western Rail. Co.* (1874), *ibid.*, 134, at p. 144 ; *per* Lord DUNEDIN and Lord BUCKMASTER in *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273, at pp. 295, 301. Many other passages to a similar effect might be cited.

(*q*) *Vide infra*, p. 140.

(*r*) The observations in the text are founded upon the judgments referred to in note (*p*), *supra*. It is difficult to reconcile with these the apparently contrary dicta in *Poplar Assessment Committee* v. *Roberts*,

Any losses or expenses which the landlord may have to meet out of the rent so fixed are, however, immaterial (*s*), the problem being to ascertain, not what amount the landlord will ultimately enjoy, but the rent which, after a reasonable negotiation with the landlord, a tenant from year to year may be expected to pay him. Therefore where a house is let by the week for a certain sum, and if it is found as a fact that a tenant from year to year could reasonably be expected to give a rent of fifty-two times that sum, that rent is conclusive of gross value ; and upon such a finding it was held that there could be no deduction for expenses of collection or for the risk of loss (*t*).

The actual occupier must be regarded as one of the possible bidders in the market for the hypothetical tenancy, even though he be himself the owner of the hereditament (*u*) ; and where the occupation of the hereditament (by the owner himself or by another person who will carry out his requirements) is necessary to the owner, he must also be so regarded, though another person happens in fact to occupy it as his tenant (*x*). It may often be the case that the owner

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[1922] 2 A. C. 93, *supra ;* but these were directed to the immateriality of the existing contract between the actual landlord and the actual tenant, see *per* BANKES, L.J., in *Slaytor* v. *Newcastle Assessment Committee*, [1926] 1 K. B. 172, at p. 179.

(*s*) *Smith* v. *Churchwardens, etc., of Birmingham* (1889), 22 Q. B. D. 703 ; cf. *Mersey Docks* v. *Cameron* (1865), 11 H. L. C. 443, *supra*, p. 81.

(*t*) *Smith* v. *Birmingham, supra ;* the decision rests on the finding of fact indicated in the text, which is hardly likely to be repeated at the present day ; in practice, deductions for losses and expenses are constantly made in arriving at gross value on a basis of weekly payments. As to rates and services, see pp. 137–140.

(*u*) *R.* v. *School Board for London* (1886), 17 Q. B. D. 738 ; *London County Council* v. *Erith*, [1893] A. C. 562, *infra*, p. 174.

(*x*) *Davies* v. *Seisdon Union*, [1908] A. C. 315, *infra*, p. 131.

is the only person who can reasonably be regarded as a possible tenant, and in such a case it is not legitimate to assume a competition which does not, or cannot legally, exist (*y*). Nevertheless, there is no rule of law which prevents the gross value of a house or part of a house which is within the scope of the Rent Restrictions Act, 1920 (*z*), from being fixed at a larger sum than the landlord can recover as rent (*a*).

Although the actual occupier is to be reckoned among the possible tenants, the gross value of the hereditament is not always commensurate with the remunerative value which he derives from it (*b*). If there is more than one person who enjoys separately some of the advantages afforded by the rateable hereditament, but only one of these persons is the rateable occupier, the hypothetical tenant is nevertheless assumed to enjoy the whole of those advantages, and the gross value is to be estimated as the rent that he would give on that assumption. For instance, a sewage farm belonging to a sewerage authority and a farming tenant is not to be assessed solely in relation to the rent which it commands as a farm, but at a gross value equivalent to the rent which a hypothetical tenant would give who

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(*y*) *Great Western and Metropolitan Rail. Cos.* v. *Kensington Assessment Committee*, [1916] 1 A. C. 23, *infra*, p. 182. This proposition applies more especially to public utility undertakings, see Chap. IX; but it may also apply to such buildings as schools for which a gross value has to be ascertained, where these cannot be used without alteration for any other purpose than that for which the owner actually uses them; see p. 145, note (*d*).

(*z*) 10 & 11 Geo. 5, c. 17.

(*a*) *Poplar Assessment Committee* v. *Roberts*, [1922] 2 A. C. 93, *supra*, pp. 125, 128; the case arose upon the assessment of a public-house, and the writer is not aware that it has been acted upon in the assessment of purely residential property.

(*b*) *R.* v. *Sherford* (1867), L. R. 2 Q. B. 503; *R.* v. *Rhymney Rail. Co.* (1869), L. R. 4 Q. B. 276, *infra*, pp. 226, 188.

required the farm, not only for the purpose of cultivation, but also for that of disposing of the sewage by approved methods (*c*).

In considering the rent that he can afford to pay, the hypothetical tenant must be taken to have in view the latest facts affecting the value of the hereditament. The gross value is the rent which a tenant might reasonably be expected to give in the coming year, not what he might have been expected to give in the past (*d*); and therefore, although the hereditament is to be valued as it stands (*e*), any change of circumstances affecting its letting value in the market which is known, or may be foreseen, when the valuation takes place, may increase or reduce the gross value. The effect of this principle is most clearly perceived where the valuation is based on profits (*f*), for in such a case the latest data available must be the surest guide to the rent that will be paid in expectation of future profits (*g*); but the principle has to be borne in mind wherever a gross value is to be estimated, even for shop or residential property. The rents prevailing for these in any neighbourhood are affected by the present conditions of trade or of communications, and not by those which have existed in the past (*h*).

The hereditament to be valued.—The gross value is the rent which might reasonably be expected

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(*c*) *Davies* v. *Seisdon Union*, [1908] A. C. 315, *supra*, p. 129.

(*d*) *Durham County Council* v. *Tanfield Overseers*, [1923] 2 K. B., at p. 342, *per* AVORY, J., citing A. L. SMITH, M.R., in *Farnham Flint, etc., Co.* v. *Farnham Union*, [1901] 1 K. B. at p. 280.

(*e*) *Vide infra*, p. 132.

(*f*) See p. 140 below, and Chap. IX.

(*g*) *Vide infra*, pp, 133, 164, 212, note (*r*).

(*h*) Cf. Central Valuation Committee's Representations, 1st Series, 1926, Resolution 4.

for " the hereditament " to be valued, that is, the hereditament which is separately rateable. The questions, what constitutes a rateable hereditament, what are its limits, and in what way one hereditament may be divided from another so as to make it separately rateable, have been considered in connection with the subject of rateable occupation (*i*).

The value to be ascertained is that of " the particular hereditament as it stands, with all its privileges, opportunities and disabilities, created or imposed either by its natural position or by the artificial conditions of an Act of Parliament " (*k*). The hereditament is to be valued in view of its fitness for the purpose for which it is actually used (*l*). The possibility that by structural alteration, or by some change of circumstances, whether general or peculiar to the hereditament itself, it may become fitted for some different user is to be disregarded; " deferred and reversionary prospects are not to be taken into account " (*m*). This doctrine is often referred to as the rule of " *rebus sic stantibus* " (*m*).

Thus, if a piece of land be left unused, and unoccupied by buildings, it has no gross value (*n*), though it

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(*i*) See Chap. II. The definition of " hereditament " in s. 68 affords little guidance.

(*k*) See *Port of London Authority* v. *Orsett Union*, [1920] A. C., *infra*, p. 177, *per* Lord BUCKMASTER, at p. 305, and the judgment of Lord DENMAN, C.J., in *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18.

(*l*) *Metropolitan Water Board* v. *Chertsey Assessment Committee*, [1916] 1 A. C., *per* Lord PARKER, at p. 363, *infra*, p. 215.

(*m*) *Staley* v. *Castleton Overseers* (1864), 33 L. J. M. C. 178, *per* BLACKBURN, J., at p. 182; *R.* v. *Fletton* (1861), 3 E. & E. 450, *per* COCKBURN, C.J., at pp. 464–6.

(*n*) *R.* v. *St. Luke's Hospital* (1760), 2 Burrow, *per* Lord MANSFIELD, C.J., at p. 1064; *East London Rail. Co.* v. *Whitechurch* (1874), L. R. 7 H. L., *per* Lord CAIRNS, L.C., at p. 86.

may have considerable potentialities, and might be sold for a substantial sum for building purposes, or might let for a rent when built upon. The land must, however, be really vacant ; if it is put to some use, it will have a gross value, though that use may not be a visible use, like cultivation or residence or industry (*o*).

Again, if buildings are upon the land, but cannot be or are not used for the purpose for which they were erected, their gross value is to be ascertained as for the purpose (if any) for which they are in fact used. A cotton-mill which could not be kept at work owing to the trade conditions produced by the American Civil War, was held to be rateable only at the rent which a tenant might be expected to give for it as a storehouse for the machinery which it contained, and not at the rent which it would command if let for a term in order to use it as a mill (*p*); nor could it be said to have no gross value. And the value was directed to be estimated in the same way, where a silk-mill had been closed down by the owner, but he kept its machinery and equipment on the premises, in order to let the whole as a silk-mill (*q*). It will be observed that in the earlier of these two cases, the change of user was due to extraneous circumstances, and in the latter only to the decision of the owner ; yet the decision in *Staley* v. *Castleton* was held to govern the case of *Harter* v. *Salford* (*r*). These cases were distinguished where a mill was closed down for several months because of a strike, and the mill

(*o*) See *Liverpool Corporation* v. *Chorley Union*, [1913] A. C. 197, and the cases cited in connection with it, *supra*, pp. 48–54.

(*p*) *Staley* v. *Castleton Overseers*, *supra*.

(*q*) *Harter* v. *Salford Overseers* (1865), 34 L. J. M. C. 206.

(*r*) It is not very easy to reconcile the decision in *Harter* v. *Salford*, with some of the observations of Lord PARKER in *Metropolitan Water Board* v. *Chertsey*, *supra*, p. 132, note (*l*).

was held to be rateable as a going concern and not as a mere storehouse for machinery (*s*). But it is difficult to see any real distinction between this case and that of *Staley* v. *Castleton*, for in both cases the closing of the mill was due to trade conditions which did not depend on the will of the individual mill-owner ; indeed, the decision in *Hoyle and Jackson's* case appears to be contrary to the principles above indicated, and would probably not be followed, now that the effects of strikes in depressing the values of industrial premises are generally recognised (*t*)

Machinery and plant.—Machinery and plant specified in the statement (*u*) confirmed by order under s. 24 of the Act of 1925—and such machinery only—is to be deemed to be a part of the hereditament to be valued ; and in valuation, no account is to be taken of any other machinery or plant in or on the hereditament (*x*). As this provision chiefly affects industrial premises, it will be further considered in connection with their rateable value (*y*). But, to take examples from hereditaments for which a gross value has to be ascertained, where a large hotel is valued (otherwise than on a basis of profits), or a " department store," and is equipped with passenger lifts or heating apparatus or fire protecting plant, the rent must be estimated which may be expected for the building as so equipped ; but no account will be taken of the value of bars or counters.

(*s*) *Hoyle and Jackson* v. *Oldham Union*, [1894] 2 Q. B. 372.

(*t*) Cf. *Durham County Council* v. *Tanfield Overseers*, [1923] 2 K. B. 333, *infra*, p. 164.

(*u*) The statement now in force is scheduled to the Plant and Machinery (Valuation for Rating) Order, 1927, St. R. & O. 1927, No. 480 ; it may be revised by Order under s. 24 (6). See Appendix II.

(*x*) S. 24 (1), (*a*), (*b*) ; this provision, however, does not apply where the value is ascertained on a basis of profits, *vide infra*, p. 140.

(*y*) See Chap. VII, *infra*, p. 160.

Usual tenant's rates and taxes.—The definition of gross value assumes that the tenant undertakes to pay all usual tenant's rates and taxes. The hypothetical tenant must be assumed to have these payments in his mind when calculating what rent he can afford to pay (*z*) ; a great proportion of tenancies are of course entered into on such terms, and where an actual rent is available as a guide, no deduction may be made from it on this ground ; the point is important where the landlord covenants to pay rates (*a*), or where the gross value is estimated on a basis of profits (*b*). The general rate and special rate are usual tenant's rates (*c*) ; except as to any part of the general rate which is under any local Act to be borne by the owner (*d*). The income tax under Schedule A (*e*), and the land tax (*f*), are to be treated as payable by the landlord, who has ultimately to bear them (*g*).

Drainage and similar rates.—Where the hereditament is subject to any rate or charge made by commissioners of sewers, drainage boards, or other authorities with similar powers (*h*), in respect of any drainage, wall, embankment or other similar work, a

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(*z*) *R.* v. *Shoreditch Assessment Committee*, [1910] 2 K. B. 859, *infra*, p. 144.

(*a*) *Infra*, p. 137. (*b*) *Infra*, p. 140.

(*c*) They are levied and collected like the poor rate, Act of 1925, s. 2 (3), s. 3 (2) ; and the poor rate was a tenant's rate, *Hackney, etc., Tithe Rentcharges* (1858), E. B. & E. 1, *infra*, p. 225.

(*d*) See s. 64 (i) (*c*) ; *Slaytor* v. *Newcastle Assessment Committee*, [1926] 1 K. B. 172, *supra*, p. 78.

(*e*) *R.* v. *Southampton Dock Co.* (1851), 14 Q. B. 587.

(*f*) *Hackney, etc., Tithe Rentcharges, supra.*

(*g*) So also may a landlord's rates, even if the actual tenant has contracted to bear it, *Slaytor* v. *Newcastle, supra.*

(*h*) *E.g.*, the Lancashire and West Riding County Councils have powers of rating for such purposes under local Acts.

deduction must be made of the average annual amount of such rate or charge. If the rate is a usual tenant's rate, the deduction will be made before arriving at gross value for the reason indicated above (*i*). If it is not, the amount will be deducted from gross value in arriving at net annual value (*k*), in addition to the percentage deduction allowed by Part I of the Second Schedule. The question whether any particular rate or charge of this kind is a tenant's or a landlord's rate is therefore of little interest for the present purpose. If it is not a tenant's rate, however, no deduction will be allowed unless the work is for the benefit (either solely or in common with others) of the hereditament which is being valued (*l*) ; if the charge is imposed for the benefit not only of the hereditaments charged, but of others also, the charge is to be apportioned among the whole of the hereditaments benefited (as if they were all charged), and in valuing any hereditament that is charged the deduction will be confined to the amount so allocated (*m*).

Tithe rentcharge.—If there is any tithe rentcharge payable in respect of the land, the gross value is to be estimated as if the tenant undertook to pay it (*n*) ; that is, it is treated as one of the items he knows he must

(*i*) *Supra*, p. 135 ; *R.* v. *Hall-Dare* (1864), 34 L. J. M. C. 17.

(*k*) S. 22 (1) (*a*).

(*l*) See *R.* v. *Hall-Dare, supra ; R.* v. *Gainsborough Union* (1871), L. R. 7 Q. B. 64.

(*m*) *Green* v. *Newport Union*, [1909] A. C. 35.

(*n*) See definition of gross value, s. 68. Tithe rentcharge as defined in the Tithe Act, 1891, 54 & 55 Vict. c. 8, s. 9 (2), is in fact payable by the owner, s. 1 (1) ; he may of course be also the occupier of the land. There is no deduction for a corn-rent which is not the equivalent of a tithe rentcharge, *Hackett* v. *Long Bennington Overseers* (1864), 16 C. B. (N.S.) 38. The matter is referred to in the Central Valuation Committee's Representations, 2nd Series, 1927, Resolution 43.

meet, when fixing by agreement the rent he can afford to pay. The rent paid by an actual tenant for land which is subject to tithe rentcharge may (if it otherwise represents the true rent) therefore have to be reduced by an amount equivalent to the rentcharge, in order to arrive at the gross value of the land (*o*). When a tithe rentcharge is redeemed, the gross value of the land must be ascertained afresh, without any reference to the tithe rentcharge ; it is not legitimate merely to add the equivalent of the rentcharge to the gross value at which the land was previously assessed (*p*).

"Rent" which includes rates.—In many cases, suites of offices, flats, tenements, and what is called "weekly property," and sometimes other hereditaments, are let on the terms that the landlord shall pay the rates due in respect of the premises, although the tenant is the rateable occupier (*q*). Even though the "rent" payable under such a tenancy be a rent recently fixed under market conditions, it nevertheless includes something more than the rent that may reasonably be expected for the hereditament in the sense of the definition of "gross value," which assumes that the tenant undertakes to pay "all usual tenant's rates and taxes (*r*) ; therefore a deduction must be made if the rent is used as indicating that value.

This deduction must be equivalent to the rate in the pound on the rateable value, and is ascertained by means of a proportion sum (*s*). The rate in the pound

(*o*) As where the landlord pays rates out of the rent, *infra*.

(*p*) *Twitchin* v. *Alton Union* (1924), 22 L. G. R. 482.

(*q*) As to the distinction between this position and that of a lodger, *vide supra*, pp. 36–38.

(*r*) See proviso to definition of "rate" in s. 68.

(*s*) *Tyne Improvement Commrs.* v. *Chirton Overseers* (1862), 32 L. J. M. C. 192. The rateable value *plus* rates is first ascertained and

is generally taken for this purpose at the actual rate prevailing in the rating area, or the part of a rating area, concerned at the time when the valuation is made. But, if the rates there levied are likely to increase or decrease in the near future, it may be found proper to adopt a higher or lower rate. Where a differential rate is in force in that part of a rating area, in which the hereditament is situated, that rate is to be adopted for this purpose, and not the higher rate prevailing in the remainder of the area (*t*). The rate in the pound used in this calculation must be reduced by any fraction of the rate, which under a local Act the tenant can deduct against his landlord in paying his rent (*u*).

Where the landlord obtains an allowance because he is rated, or is bound by an undertaking to pay rates, instead of the occupier (*x*), the amount of the rates is nevertheless to be deducted as if they were paid in full (*y*).

Where the landlord pays the water-rate by agreement with the tenant, the water-rate must be deducted, because the sum which the tenant pays the landlord in return for this service is a charge for water supplied, and in no sense a rent (*z*).

Services other than payment of rates.—It is frequently the case, especially in the letting of flats

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the deduction for rates arithmetically calculated; many rating authorities use a prepared scale for this purpose. As to the calculation of rateable from gross, *vide infra*, p. 151.

(*t*) *Slade* v. *Bristol Overseers* (1906) (K. B. D.), J. P. newsp., December 31, 1910.

(*u*) *Slaytor* v. *Newcastle-upon-Tyne Assessment Committee*, [1926] 1 K. B. 172, *supra*, p. 135.

(*x*) See Chap. III.

(*y*) *R.* v. *Dodd* (1865), L. R. 1 Q. B. 16; cf. *Piggott* v. *Cuckfield Union*, [1921] 2 K. B. 647.

(*z*) *Smith* v. *Birmingham Churchwardens* (1888), 22 Q. B. D. 211, 217; there was no appeal on this point.

and tenements, offices and warehouses, that the landlord (in return for a sum included in the "rent") performs such services as the maintenance of lifts, the cleaning and lighting of the common staircase and so on. A proviso to the definition of "gross value" (*a*) directs that no account shall be taken of the value of any services rendered by or on behalf of the landlord to the tenant, or to a number of tenants; in other words, when calculating the gross value from the "rent" paid, that part of the payment which is made for these services is to be deducted, for the same reason that the payment which is made to the landlord in return for his paying the rates is deducted. Even if there were no such proviso, the definition itself would compel the making of such a deduction, according to the principles already indicated; but the exceptions made in the proviso are to be noted. Thus, account must be taken of "the value of . . . the provision of the heredita-"ment," for that value is rent, pure and simple, and must therefore not be left out of account. Again, the value of "repairs to, or maintenance of, the heredita-"ment" is included in gross value by virtue of the definition itself (*b*); and, as will be seen, a deduction from gross value is made for this purpose before arriving at net annual and rateable value and is regulated by a scale (*c*). But where the hereditament which is being valued is a flat or tenement, or other portion of a building let separately from the rest (*d*), the repair and maintenance by the landlord of those portions which are not let, such as halls, staircases, lifts—and in some cases, roofs and outer walls—are not "repairs to, or

(*a*) S. 68; see Appendix I. (*b*) *Supra*, p. 124.
(*c*) S. 22 (1) (*a*), and 2nd Sched., Part I.
(*d*) *R.* v. *St. George's Union* (1871), L. R. 7 Q. B. 90, *supra*, p. 37.

" maintenance of, the hereditament " ; and such part of the " rent " as is paid to compensate the landlord for rendering to his tenant the service of repairing and maintaining these portions should be deducted in arriving at the gross value ; the deduction allowed by the scale being afterwards made from the gross value thus ascertained.

Trade profits.—From the rule that the gross value to be ascertained is that of the actual hereditament as it stands with all its advantages, and in view of its fitness for the actual purpose for which it is used, it follows that where the premises are used for trade or business, their fitness for that purpose—the " ability to " carry on a gainful trade upon the land " is an element in the gross value (*e*). Where the hereditament is let as a shop, an office or a factory, at a rent fixed as between strangers, its advantages and disadvantages of situation and construction for that purpose are of course reflected in the rent actually paid (*f*) ; and even if the hereditament itself is not let at such a rent, the rents of similar property in the neighbourhood may afford a standard by which its gross value can be fixed.

In many cases, however, there is neither an actual rent nor a standard of comparative rents which affords a guide to gross value. In regard to certain classes of large buildings such as " department stores," warehouses, hotels, built by the occupiers themselves, a method of estimation based on structural value is often adopted, which will be discussed hereafter (*g*).

(*e*) *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18, at p. 38 ; *supra*, p. 132.

(*f*) See *per* BLACKBURN, J., in *Mersey Docks* v. *Liverpool* (1873), L. R. 9 Q. B., at p. 97 ; and in *R.* v. *L. & N. W. Rail. Co.* (1874), *ibid.*, at p. 144, *supra*, p. 128.

(*g*) *Infra*, pp. 144, 215.

But such property as ordinary licensed premises, race-courses (*h*), sports-grounds, theatres, cinemas, music-halls are frequently assessed with reference to the actual trade done, by making a calculation on the basis of actual receipts, if these are available, or if not, upon a basis of estimated receipts (*i*). It must always be remembered, however, that the problem is to ascertain what is the rent that a tenant might be expected to pay for the hereditament; not to rate him on the profits he may expect to earn. And therefore if there is any cause for the enhancement of the profits other than the advantages of the hereditament—such as the skilful management of the actual occupier or the quality of the goods he supplies—this must be discounted. Where the valuation is made on the basis of profits, the latest data available as to the trade that has been, or can be, done must be employed (*k*).

Licensed premises.—Licensed premises possess the advantage that a trade in intoxicating liquors can be carried on upon the hereditament by virtue of the licence, which applies to that particular hereditament, and which cannot be removed to another at the will of the trader (*l*). The gross value of an ordinary public-house is therefore to be estimated in the light

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(*h*) See *R.* v. *Verrall* and the cases cited therewith, *infra*, p. 143, notes (*q*), (*r*), (*s*).

(*i*) Where the valuation is made in this way, the provisions of s. 24 of the Act of 1925 with regard to the inclusion in valuation of certain plant and machinery only, have no application. There is nothing on this account to be added to, or subtracted from, a valuation arrived at on a profits basis.

(*k*) *Vide supra*, p. 131; and *R.* v. *London, Brighton & S. C. Rail. Co.* (1851), 15 Q. B., at p. 367, *infra*, p. 183.

(*l*) See Licensing (Consolidation) Act, 1910, 10 Edw. 7 & 1 Geo. 5, c. 24, ss. 1, 12–16, 110.

of that advantage (*m*); and the usual method of doing so is to proceed upon a basis of the receipts earned or estimated (*n*). The great majority of public-houses are now "tied" houses, that is, they are owned by, or leased to, brewers who let or sublet them to tenants with a covenant to take their liquors, or a part of them, from the landlord firm or company; or else manage them by their own servants and supply them with liquors. Where there is a "tied" tenant, the rent reserved is often less than it would otherwise be, by reason of the "tying" covenant. A "free" house is a house occupied by an owner or tenant independent of any brewer, who is free to buy his liquor where it suits him best. Now the gross value is the rent at which the hereditament might be expected to let to any tenant; and therefore, if the actual occupier is a tied tenant and pays a lower rent for that reason, his rent is not equivalent to gross value (*o*), and if he is a manager there is no rent in any sense. In effect, therefore, the gross value of a tied house is to be arrived at on the same principles as if it were free, and as if the rent could be fixed in the open market with the tenant who proposed to trade there (*p*).

Estimation of gross value on a basis of profits has

(*m*) *R.* v. *Bradford* (1815), 4 M. & S. 317; *R.* v. *Shoreditch Assessment Committee*, [1910] 2 K. B. 859.

(*n*) *Vide supra*, p. 141.

(*o*) *Sunderland Overseers* v. *Sunderland Union* (1865), 34 L. J. M. C. 121, *infra*, p. 159.

(*p*) In *Bradford-on-Avon Union* v. *White*, [1898] 2 Q. B. 630, it was held that a fancy rent given by brewers to secure a public-house to be tied to their brewery was to be disregarded, if higher than the rental value which would be given in a market in which brewers competed for houses; but that case has lost much of its importance in modern conditions of trade, and especially now that valuation upon a basis of profits has become general.

been sanctioned, first in the case of a race-course (*q*), next in that of a railway refreshment-room (*r*), and finally in that of an ordinary public-house (*s*). In the last case, the principle was thus stated : " It is not that you rate " the profits, it is not that you rate the man's skill and " judgment or discretion in the mode of carrying on " the business, but you have to ascertain what sort of " trade the hypothetical tenant, as he is called, may " reasonably expect to be able to carry on on those " premises as an element in determining the rent he " would be willing to offer " (*t*). It is true, where there is evidence of what the market rent of the house would be, there is no need to go into any question of profits ; but cases where such evidence is forthcoming are now rare ; and since the decision in *Cartwright* v. *Sculcoates Union*, this method of valuing public-houses has become general.

But two limitations of its application must be borne in mind : first, there is no compulsion on the occupier to produce his books (*u*) ; and if he does not do so, and the basis of profits is adopted, the profits must be estimated. Secondly, even though the actual profits are available, they are not a safe guide, if it can be shown that they are enhanced by the skill of the licensee, or by the particular quality of the liquors sold ; in such a case, a reduced estimate should be made.

(*q*) *R.* v. *Verrall* (1875), 1 Q. B. D. 9.

(*r*) *Clark* v. *Alderbury Union* (1880), 6 Q. B. D. 139.

(*s*) *Cartwright* v. *Sculcoates Union*, [1899] 1 Q. B. 667 ; [1900] A. C. 150 ; where the H. L. in effect overruled the decision of that to the contrary in *Dodds* v. *South Shields Union*, [1895] 2 Q. B. 133.

(*t*) *Per* Lord DAVEY, [1900] A. C., at p. 159.

(*u*) *Cartwright* v. *Sculcoates Union*, *supra*. If the occupier gives evidence of receipts, he must also be allowed to give evidence of his expenditure, *Parr* v. *Leigh Union* (1905), 1 Konstam, 211.

The amount of the licence-duty must be taken into account as reducing the rent which a tenant may be expected to pay (*x*) ; as well as the amount of the rates.

Perhaps the most logical way of estimating gross value on a basis of receipts is to deduct the outgoings, and an estimated sum which the tenant might reasonably expect to keep for his own remuneration or for interest on his capital, and to divide the remainder between rates, licence duty (*y*), and rent or gross value ; but sometimes the more rough-and-ready method is adopted of taking a percentage on gross receipts (fixed in view of the above heads of deduction) as the gross value, or even (in the case of a tied house) adding a sum to the tied rent as representing the value of the tying covenant ; but in the present conditions of the trade the last-named method has become less common.

The fact that a public-house is within the scope of the Rent Restriction Acts does not affect its gross value (*z*).

Structural value.—As a method of arriving at gross value, it is permissible (*a*) to ascertain the values of the land and buildings and other portions of the hereditament (such as the machines and plant that are deemed to be part of it (*b*)), and to apply percentages to those values, which when aggregated may afford an estimate of the rent reasonably to be expected. The capital value to be taken is that of the hereditament in view of its fitness for the purpose for which it is

(*x*) *R.* v. *Shoreditch Assessment Committee*, [1910] 2 K. B. 859 ; as to rates, *vide supra*, p. 135.

(*y*) *R.* v. *Shoreditch*, *supra*.

(*z*) *Poplar Assessment Committee* v. *Roberts*, [1922] 2 A. C. 93.

(*a*) But by no means obligatory, *Pointer* v. *Norwich Assessment Committee*, [1922] 2 K. B. 47, 471, at pp. 475–6.

(*b*) *Vide infra*, p. 160.

used (*c*); such a value is not necessarily the same as the cost of construction on the one hand, or as the price for which the land and buildings could be sold (even as part of a going concern) on the other. This method of valuation may be appropriate where the owner is in occupation, as in the case of a town hall, a hospital, a provided school (*d*), a hotel or a department store, or where the tenant pays only a ground rent and has erected the buildings, etc., himself, and generally in the case of large or unusual buildings as to which it is difficult to find a standard of comparison for estimating rents. But since the War this method of valuation has gone somewhat out of favour, owing to the great inflation of building costs and the consequent difficulty in estimating capital value; it is sometimes used for large hotels and so on, but its principal application is to industrial premises, and to hereditaments forming part of public utility undertakings, in connection with which latter class it is more fully considered (*e*).

Agricultural hereditaments: sporting rights.—In the case of a farm, a market garden, or any other hereditament which includes agricultural land, a separate gross value has to be arrived at for (1) any farm-house, cottage (*f*) or other dwelling-house included in the hereditament; (2) for any agricultural buildings or market-garden buildings; (3) for any agricultural

(*c*) *Vide supra*, p. 132.

(*d*) In *R.* v. *School Board for London* (1886), 17 Q. B. D. 738, *supra*, p. 129, the assessment was arrived at on this basis. See also *London School Board* v. *Wandsworth Union* (1900), Ryde and Konstam, 24.

(*e*) See Chaps. X, XI, pp. 187, 215–217.

(*f*) As to the question whether a cottage in which an agricultural labourer resides forms part of the hereditament occupied by his employer, see p. 45, *supra*. The definition of "agricultural land" is considered, *supra*, p. 99.

land not covered by buildings (*g*). A single gross value must, however, be first estimated for the whole hereditament, *e.g.* for the farm or the market-garden holding; because, as has been seen above, a rateable hereditament is that which is let, or is capable of being let, as a whole for the purposes of a single occupation (*h*). The gross value so estimated must afterwards be divided among the above items, and the total must not be increased by reason of the division; though the amounts allocated to the dwelling-houses and the other buildings must be calculated according to the rent to be expected for them, if they could only be used for the cultivation of the land; reference to structural cost is expressly excluded (*i*). While they are occupied for purposes of cultivation, the farm-house and other dwelling-houses must not be valued by themselves as ordinary residential property; nor, on the other hand, must the farm buildings be valued at a blackmailing rent because the farmer is compelled to have them.

Where the sporting rights are enjoyed by the occupier of the land (whether he is owner or tenant), the gross value of the hereditament is of course equivalent to the rent which a tenant would give for the land and the sporting rights taken together (*k*). And further, where any such right is severed from the occupation

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(*g*) Separate rates of deduction apply to these items under Part I of the 2nd Sched. and items (2) and (3) receive deductions under Part II, which item (1) does not, *vide infra*, p. 151. As to the separate entry of these items in the valuation list, *vide supra*, p. 113.

(*h*) *Supra*, pp. 55–57; see especially *Rawlence* v. *Hursley Union* (1877), 3 Ex. D. 44.

(*i*) Agricultural Rates Act, 1896, 59 & 60 Vict. c. 16, s. 5 (*c*). See Central Valuation Committee's Representations, 2nd Series, 1927, Resolution 42.

(*k*) *R.* v. *Williams* (1854), 23 L. T. (O. S.) 76; *Eyton* v. *Mold Overseers* (1880), 6 Q. B. D. 13, *infra*, p. 148.

of the land and is not let by deed, and the owner of the right receives rent for the land, the gross value of the land is to be estimated as if the right were not severed; and the amount of any increase in the rateable value of the land, due to inclusion of this element of value, is to be certified in the valuation list or otherwise by the assessment committee on the application of the occupier (*l*). Sporting rights severed and let are separately assessed, without reference to gross value (*m*).

The deductions between gross value and net annual value, and between net annual value and rateable value, which are considered below (*n*), must be made according to the gross value ascertained as above, although this includes an element of value due to the sporting rights (*o*).

If a right of common is attached to an agricultural hereditament, the gross value will be equal to the rent which a tenant would give for the hereditament with that right attached (*p*).

Woodlands.—Where land is used only for a plantation or a wood, its gross value is to be estimated as if, "instead of being a plantation or a wood," it "were let "and occupied in its natural and unimproved state" (*q*); this constitutes a statutory exception from the general rule that every hereditament is to be valued as it stands (*r*),

(*l*) But the rating authority has no power to make such a division unless the occupier applies; Rating Act, 1874, 37 & 38 Vict. c. 54, s. 6 (1); *vide supra*, p. 64. As to entry in the valuation list, *vide supra*, p. 113.

(*m*) *Ibid.*, sub-ss. (2)–(4), *infra*, p. 154; as to the meaning of "severed" and "let," see p. 64, notes (*r*) (*t*)

(*n*) Pp. 150–152.

(*o*) *Supra;* and see p. 100, note (*t*).

(*p*) As to the common land itself, *vide supra*, p. 31.

(*q*) Rating Act, 1874, 37 & 38 Vict. c. 54, s. 4 (*a*). As to the rateability of woodlands, *vide supra*, p. 19.

(*r*) *Supra*, p. 132.

but that rule applies nevertheless to this extent, that possibilities of improvement by drainage, roadmaking, and so on, must be left out of account (*s*). Apart from this point, there has been no judicial interpretation of the words quoted.

That general rule, however, applies without any limitation where the land is used for the growth of saleable underwood; the gross value of such land is the rent at which it may reasonably be expected to let in an ordinary year to a tenant who will continue in occupation long enough to cut and sell the underwoods when they are ready (*t*).

If the land is used both for a plantation or a wood and for the growth of saleable underwood, the assessment committee may fix the gross value according to either of the above principles (*u*).

As regards woodlands of either class, the sporting rights are treated in the same way as sporting rights over agricultural land (*x*).

Woodlands receive a reduction of 5 per cent. from gross value in order to arrive at net annual value (*y*), and if they happen to be situate in a county borough or other urban district a further deduction to arrive at rateable value (*z*).

Other exceptional principles of valuation.—Provisions for the making of valuations on exceptional

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(*s*) *Westmoreland* (*Earl*) v. *Southwick* (1877), 36 L. T. 108.

(*t*) Act of 1874, s. 4 (*b*); *R.* v. *Mirfield* (1808), 10 East, 219.

(*u*) S. 4 (*c*).

(*x*) *Vide supra*, p. 146. This point is not affected by the provisions of s. 4 (*a*) in the case where the land is used only for a plantation or a wood, *Eyton* v. *Mold* (1880), 6 Q. B. D. 13.

(*y*) 2nd Sched., Part I, class (7), *infra*; but if they include buildings, class (6) gives a 10 per cent. reduction.

(*z*) *Infra*, p. 152.

principles are still applicable to the estimation of gross value (*a*), such provisions apply to certain property acquired by the Postmaster-General (*b*), to burial grounds, light railways, canals and so on (*c*), and to new allotments (*d*); these have been considered in dealing with exemptions.

Where an advertising station is the subject of a separate rateable occupation (*e*), its gross value is ascertained on ordinary principles. On the other hand, where land rateably occupied for other purposes is used temporarily or permanently for the exhibition of advertisements, or for the erection, etc., of any hoarding or structure so used, the gross value of the land is to include the increased value for that use (*f*).

There is a provision in the Rent Restrictions Act, 1920, which limits the gross value of any house to which that Act would have applied if erected or reconstructed before August 3, 1914, to the rent (exclusive of rates) charged by the local authority, if the house forms part of a "housing scheme"; and if it does not, the rent (exclusive of rates) which the rating authority would have charged for a similar house forming part of a "housing scheme" (*g*).

(*a*) S. 64 (1) (*a*).

(*b*) *Supra*, p. 83

(*c*) *Supra*, p. 91.

(*d*) *Supra*, p. 94.

(*e*) Advertising Stations (Rating) Act, 1889, 52 & 53 Vict. c. 27, s. 3, *vide supra*, p. 61.

(*f*) S. 4; see *Chappell and St. Botolph Overseers*, [1892] 1 Q. B. 561, *supra*, p. 62.

(*g*) 10 & 11 Geo. 5, c. 17, s. 12 (9); the first part of the enactment is easily applied, by making a deduction for rates from the actual rent, if the authority pays the rates, see pp. 137, 138, *supra*; the second part seems to leave the assessment practically at large. See the Central Valuation Committee's Representations, 2nd Series, 1927, Resolution 41.

Deduction from gross to net annual value.—The gross value (as has been seen) is estimated on the basis that the landlord undertakes to bear "the cost of "repairs and insurance, and the other expenses, if "any, necessary to maintain the hereditament in a state "to command" the rent (*h*). There is no provision in similar words authorising any deduction. Instead of any such provision, deductions of specified sums, or fractions of gross value, are permitted for the several classes of hereditaments in respect of which a gross value is ascertained, according to a table (*i*); and in addition the average annual amount of any drainage rates or charge is to be deducted, to which the particular hereditament is subject for its own benefit, and which has not already been deducted, or put out of account, as a usual tenant's rate (*k*); the figure left, after making such deductions, is the net annual value (*l*).

The amount of the deduction regulated by Part I of the Second Schedule varies according to the class there described to which the hereditament belongs. Houses and buildings, where no land (other than gardens) uncovered by buildings is included with them in the same hereditament, receive different amounts of deduction, according to the different limits of gross value shown in classes (1)–(5); but if there is uncovered land (other than agricultural) included as well as buildings in a hereditament which is valued as a whole, the deduction is by class (6) to be 10 per cent. only of the gross value (*m*). Land without buildings receives a

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(*h*) See definition, *supra*, p. 124.
(*i*) 2nd Sched., Part I; s. 22 (1) (*a*).
(*k*) S. 22 (1) (*a*), *vide supra*, p. 135.
(*l*) S. 22 (1) (*a*).
(*m*) For the definition of agricultural land, *vide supra*, p. 99; and

deduction of 5 per cent. (class 7). The word "house" must include a flat, tenement, or suite of offices, which is a separate rateable hereditament (*n*), and each of such will receive a separate deduction according to the class in which its gross value places it (*o*).

It has been seen above (*p*) that the gross value of an agricultural or market-garden hereditament has to be allocated to three different items; of these, the dwelling-houses (with their gardens), and the agricultural or market-garden buildings, receive deductions according to the rate appropriate to that one of classes (1)–(5) in which they are included; the uncovered agricultural land (which includes market-garden land) receives a deduction of 5 per cent. (class 8).

Rateable value equal to, or reduced from, net annual value.—In general, rateable value is the same as net annual value; but among the hereditaments for which a gross value is ascertained, there are four classes of property which are entitled to a further reduction before the rateable value is reached (*q*). These are, first, agricultural land; secondly, buildings (other than dwelling-houses) occupied together with agricultural land, or being or forming part of a market-garden, and used solely in connection with agricultural operations on the agricultural land or the market-garden with which they are occupied (*r*); thirdly and

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as to what constitutes a separately rateable hereditament, *vide supra*, pp. 55–58.

(*n*) *Vide supra*, p. 37.

(*o*) See also "Services other than payment of rates," *supra*, p. 138.

(*p*) Pp. 145, 146.

(*q*) S. 22 (1) (*c*).

(*r*) S. 22 (1) (*c*) read with 2nd Sched., Part II, classes (1) and (2); the meaning of the terms employed is considered at pp. 99, 101, *supra*.

fourthly, land covered with water and woodlands situate in a county borough or urban district (*s*). If any property of these classes forms part of what would otherwise be a single rateable hereditament, the gross and net annual value of that part should nevertheless be separately ascertained, in order to allow of this reduction to be made in arriving at rateable value (*t*).

In the first two classes, a deduction of 75 per cent. of the net annual value is made (*u*) ; in the case of land covered with water or woodlands, the deduction is a percentage fixed by Order for the borough or district concerned or by any local Act for the consolidation of rates passed before the commencement of the Rating Act, 1925 (*s*).

(*s*) Classes 3 (*a*) and 3 (*b*) ; the percentages in class 3 (*a*) are fixed by a series of Ascertainment of Rateable Values Orders, 1926 and 1927, made under Part III of the 2nd Sched., *vide supra*, p. 102.

(*t*) *Vide supra*, pp. 101–103, 113.

(*u*) S. 22 (1) (*c*) read with 2nd Sched., Part II, classes (1) and (2).

CHAPTER VII

RATEABLE VALUE ESTIMATED WITHOUT REFERENCE TO GROSS VALUE

Industrial Premises generally

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Classes of property concerned.—For several classes of property—some of them both numerous and pecuniarily important—no gross value is estimated, but a net annual value is ascertained directly, according to a separate definition (*a*). The practical difference is that the estimate is prepared on the basis that the tenant, and not the landlord, undertakes to bear the cost of the repairs, insurance, and other expenses necessary to maintain the hereditament in a state to command the rent.

These classes of property are as follows :

Mills, manufactories, or premises of a similar character used wholly or mainly for industrial purposes (*b*) ;

Mines, quarries, and brickfields (*c*) ;

(*a*) S. 22 (1) (*b*), read with para. (*a*), and with Part I of the 2nd Sched. and the Note thereto.

(*b*) These words are taken from the Note to Part I of the 2nd Sched.

(*c*) See Chap. VIII.

Hereditaments valued as part of any railway, dock, canal, gas, water, electricity or other public utility undertaking (*d*); this expression must include harbour, tramway, hydraulic power, and sewerage undertakings, and would appear to include markets, burial-grounds, and cemeteries;

Tithe rentcharge and other incorporeal hereditaments of a similar nature (*e*);

Sporting rights when let to a person who is not the occupier of the land over which they are exercised (*f*).

The rateable value of the above is the same as the net annual value, except that a reduction is made in the case of tithe rentcharge, etc., canals and towing-paths, certain parts of railway undertakings, and land covered with water, where any of these is situate in an urban parish (*g*).

Net annual value; rateable value.—"Net "annual value" is defined as follows for the classes of property just specified:

"The rent at which the hereditament might reason- "ably be expected to let from year to year if the tenant "undertook to pay all usual tenant's rates and taxes "and tithe rentcharge, if any, and to bear the cost of "the repairs and insurance and the other expenses, if "any, necessary to maintain the hereditament in a

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(*d*) 2nd Sched., Part I, Note; see Chaps. IX–XI.

(*e*) These do not come within any of the classes specified in Part I of the 2nd Sched, see Chap. XII.

(*f*) See note (*e*); Rating Act, 1874, s. 6 (2); *Kenrick* v. *Guilsfield Overseers* (1879), 5 C. P. D. 41, *supra*, p. 63, notes (*p*), (*r*). No special difficulty appears to arise in applying the definition of net annual value to sporting rights of this class; cf. pp. 125–127, 147, *supra*.

(*g*) S. 22 (1) (*c*), read with 2nd Sched., Part II Class (3); *supra*, pp. 101–103.

" state to command that rent " (*h*). " Rateable value " is the same as net annual value, for mills and manufactories, and for all hereditaments included under the phrase " premises of a similar character used wholly or mainly for industrial purposes," which are considered in the present Chapter and Chap. VIII, except that as to any part of the hereditament which consists of land covered with water in an urban parish, a deduction of the appropriate percentage must be made (*i*).

The definition of net annual value differs from that of gross value (*k*) only in this, that the tenant (and not the landlord) is assumed to undertake the cost of repairs, insurance, and other expenses of maintenance (*l*). The hypothetical tenant must therefore be assumed to calculate the rent that he can afford to pay for the hereditament, with the knowledge that he will have to pay these costs and expenses, as well as usual tenant's rates and taxes and tithe rentcharge, if any, out of the sum which he has available to provide himself with premises (*m*). Apart from this point, the general observations made in Chap. VI as to the rent reasonably expected, as to the prospect of continuance of the tenancy from year to year, as to the hypothetical tenant, and the market for tenancies, as to the hereditament being valued as it stands with all its advantages and disadvantages, as to

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(*h*) S. 22 (1) (*b*).

(*i*) S. 22 (1) (*c*), read with class 3 of Part II of the 2nd Sched.; as to the percentage deductible, *vide supra*, p. 102. Any " land covered with water " should be entered as a separate hereditament in the valuation list, *vide supra*, p. 113.

(*k*) Set out *supra*, p. 124.

(*l*) The proviso to the definition of " gross value " which deals with services rendered by the landlord (*supra*, p. 138), is also omitted, but this is immaterial.

(*m*) Cf. *R.* v. *Shoreditch Assessment Committee*, [1910] 2 K. B. 859, *supra*, pp. 135, 142.

usual tenant's rates and taxes, as to tithe rentcharge, as to rent which includes rates, as to services rendered by the landlord, as to estimation on a basis of profits or of structural value, are applicable to net annual value under this definition, as they are to gross value. But certain considerations which are peculiar, or specially material, to the classes of hereditaments for which no gross value has to be estimated, will be dealt with in this and the succeeding chapters.

As the expenses of repair, insurance, and maintenance are set aside in the process of estimating the rent which represents net annual value, there is no scale of deductions here, comparable to that contained in Part I of the Second Sched. (*n*) ; nor is there any specific deduction for drainage and similar rates and charges, because these are also thus set aside, either as being " usual tenant's rates and taxes " or as being expenses necessary to maintain the hereditament in a state to command the rent (*o*).

Mills and Manufactories.—An actual rent is not the necessary measure of net annual value, any more than of gross value (*p*) ; but mills and manufactories are sometimes let at rents, fixed as between strangers, which may afford a useful guide to the rent which a tenant from year to year would give. Where, however, there is a covenant by the landlord to bear the cost of repair, insurance, and maintenance, or some part of it, or to pay the " usual tenant's rates and taxes," the actual rent must be reduced by the average annual amount of such cost or payments (*q*). Where the mill

(*n*) *Supra*, p. 150.
(*o*) *Vide supra*, p. 135.
(*p*) *Supra*, p. 125.
(*q*) See the observations on similar points in connection with gross value, *supra*, pp. 137, 138.

or manufactory so let, though constituting a separate rateable hereditament (*r*), forms part of a larger building, the deduction should be sufficient to cover the cost of repairs and maintenance of the building itself apportioned to that part. Similarly, if the landlord in return for a lump-sum payment of "rent," renders to the tenant any service, such as the supply of motive power, or of heating, or of water for manufacturing or sanitary purposes, a deduction must be made equivalent to the annual value of that service; but any machinery or plant which is in or upon the hereditament and is included in the statement of machinery and plant in force under s. 24 of the Act of 1925, forms part of the hereditament to be valued, although it is used for the purpose of the services rendered by the landlord. If such machinery or plant is the property of the landlord, the increase of net annual value due to its presence will probably be found to be included in the rent reserved; if not, that increase may have to be added (*s*).

But it is more common for mills and manufactories to be owned by the occupier, and where this is the case, or where the occupier pays a ground rent for the land, and has erected the buildings himself, there is no actual rent to afford guidance. Recourse may be had to a standard of rent prevailing for similar factories in the neighbourhood—if such can be found—which is sometimes expressed for purposes of comparison, at so much per foot of floor-space, or, for instance, at so much per shuttle, in the case of a cotton-mill, or at so much per gallon of capacity in the case of a brewery. The method of valuation on a basis of structural value

(*r*) *Vide supra*, p. 55.

(*s*) *Vide infra*, p. 160.

is, in principle, appropriate here; and though not so frequently adopted as it was before the War, for reasons already stated (*t*), it has remained somewhat more in favour with regard to this class of property than with regard to residential property, offices, warehouses, and so on, as to which a comparative standard of rentals is more readily obtainable. Any method of rating on a basis of profits is clearly inappropriate, for although the ability to carry on a gainful trade (*u*) must be taken into account in estimating the net annual value of a factory—it would not otherwise be valued as it stands with all its opportunities—the market for tenancies of factories is not affected by the particular profits made; and the difference in value between one factory and another is not measured by the difference between their profits (*x*).

The circumstances in which it is proper to estimate the rateable value of a mill or manufactory, not as part of a going concern, but as a mere storehouse for machinery (*y*), and the effect of strikes on rateable value (*z*), have been considered in connection with gross value.

Premises of a similar character used wholly or mainly for industrial purposes.—Some classes of

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(*t*) *Vide supra*, p. 144; *infra*, p. 215.

(*u*) *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18, *supra*, p. 140.

(*x*) See *per* BLACKBURN, J., in *Mersey Docks* v. *Liverpool* (1873), L. R. 9 Q. B., at p. 97, and *R.* v. *L. & N. W. Rail. Co.* (1874), *ibid.*, at p. 144. See also *Sunderland Overseers* v. *Sunderland Union*, *infra*, p. 159.

(*y*) *Staley* v. *Castleton Overseers* (1864), 33 L. J. M. C. 178; *Harter* v. *Salford Overseers* (1865), 34 L. J. M. C. 206, *supra*, p. 133; as to premises of which parts are normally used as a "stand-by," *vide infra*, p. 159.

(*z*) See the observations on *Hoyle and Jackson* v. *Oldham Union*, [1894] 2 Q. B. 372, *supra*, p. 134.

industrial premises are clearly included by this phrase (*a*) as being of a similar character to mills or manufactories ; such, for instance, are breweries, maltings, coke-ovens, blast-furnace plants, etc. It should, however, be noted that the user must be wholly or mainly industrial ; and premises which are used merely for warehousing purposes (not being connected with a mill or manufactory or other premises of the above class) would appear to be used for commercial rather than "industrial purposes."

The rateable value of hereditaments included in the industrial class, which are nearly akin to mills or manufactories, should be estimated on similar principles. In the case of a brewery it is not legitimate to make any addition to rateable value in respect of the profits to be expected by the brewers from the tied houses that they own (*b*).

It frequently occurs that some portion of industrial premises is used as a stand-by, or has periodically to be put out of work for purposes of repair, readjustment, or renewal ; for instance, among a set of blast-furnaces, some units are out of use from time to time for relining. This is an essential condition of their profitable use ; and therefore the net annual value is the rent that would be given for the aggregate, by a tenant who is prepared to take a tenancy of it, knowing that in the ordinary course he will not be able to work all the units at the same time. It is not correct to treat those parts which are temporarily out of use as if for that period they formed no part of the rateable hereditament, or to arrive at a net annual value for the remainder only (*c*).

(*a*) 2nd Sched., Part I, Note.

(*b*) *Sunderland Overseers* v. *Sunderland Union* (1865), 34 L. J. M. C. 121, *supra*, p 158.

(*c*) *Consett Overseers* v. *Durham County Council* (1922), 20 L. G. R. 809.

Machinery and plant.—Where any hereditament is valued on a basis of profits (*d*), such a valuation gives the whole measure of the rent that that hereditament (equipped as it is) will command in order to make those profits, and there is therefore no room for any addition in respect of the annual value due to the presence upon it of machinery and plant. But this, as has been seen, is not the usual method of valuation for industrial premises ; and where a hereditament is valued on any other basis, *e.g.* according to a standard of rentals prevailing in the neighbourhood, or on structural value, certain machinery and plant which is (as indicated below) deemed to be a part of the hereditament that is being valued, must be included, either by taking a standard of rental values which applies to premises similarly equipped in the neighbourhood, or by applying to the capital value of that machinery and plant an appropriate percentage, and adding this to the value of land and buildings. The net annual value to be ascertained by either method is the rent that a tenant might be expected to give for the hereditament so equipped, on the assumption that he gets the right to use that machinery and plant, as a part of the consideration for that rent (*e*) ; just as he is assumed to get the right to occupy the land and buildings, as another part of the consideration for the rent. It must also, by virtue of the definition of net annual value (*f*), be assumed that the tenant has undertaken to repair, insure and maintain the machinery and plant in question.

(*d*) *Supra*, pp. 140, 141.

(*e*) *Smith* v. *Willesden Assessment Committee* (1919), 89 L. J. K. B. 137. If the rent, or this part of it, is calculated according to capital value, the rate per cent. to be applied is a question of fact in each case, *ibid.* See also p. 145, *supra*.

(*f*) *Supra*, p. 154.

The capital value to be taken is the value for use at the time of valuation; not necessarily the cost price, nor the selling value.

But it is not the whole of the machinery and plant which is (in fact) in or on the hereditament that is to be considered for the above purpose (where the rateable value is ascertained otherwise than according to profits); only that which is included in the Statement of Machinery and Plant in force under s. 24 of the Act of 1925 is to be deemed to be a part of the hereditament; the value of the remainder is to be left altogether out of account in estimating rateable value (*g*). Many questions may arise as to whether any particular plant or machinery falls within any of the classes or descriptions specified in the Statement, *e.g.* whether it is "used or "intended to be used mainly or exclusively in connection "with" the respective operations indicated (*h*), and whether any part "is, or is in the nature of, a building "or structure" (*i*). Any such question may, by consent, be referred to a referee, while an objection, proposal, or appeal is pending with regard to the valuation in the list (*k*).

(*g*) S. 24 (1) (*a*), (*b*), (5). The Statement in force is contained in the Schedule to the Plant and Machinery (Valuation for Rating) Order, 1927, St. R. & O. 1927, No. 480. It is liable to be revised from time to time, sub-s. (6). See Appendix II.

(*h*) See class 1, *passim*.

(*i*) See class 4.

(*k*) S. 24 (7), (8), (9); Plant and Machinery (Valuation for Rating) Rules, 1927, St. R. & O. 1927, No. 479/L. 21. As to objections, proposals, and appeals relating to valuation lists, see Chaps. XIII–XV.

CHAPTER VIII

RATEABLE VALUE—*continued*

Mines, Quarries, Brickfields, Cemeteries

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Mines, quarries, and brickfields.—The expression " mills, manufactories, or premises of a similar character " used wholly or mainly for industrial purposes " which is used in the Note to Part I of the Second Schedule (*a*), to describe certain premises excepted from the operation of that Part, is not perhaps very aptly drawn so as to include mines, brickfields, and quarries. But the difficulty of saying that it was intended to include any of these within the description of " land with buildings " valued together therewith as one hereditament " (Class 6) or of " land without buildings " (Class 7), in Part I of that Schedule, is yet greater. It is therefore assumed that they are not included in Part I, and that they are among the classes of property for which a net annual value is to be ascertained without reference to any gross value (*b*).

The rateable value of such hereditaments is the same as the net annual value (*c*).

(*a*) *Supra*, p. 153.
(*b*) S. 22 (1) (*b*).
(*c*) S. 22 (1) (*c*).

Mines generally.—There are special provisions relating to tin, lead, and copper mines (*d*); as to mines of any other class (including coal and iron mines as well as quarries), net annual value is ascertained according to the definition in the Act of 1925 (*e*). The rent which may be expected from a tenant from year to year with a prospect of continuance (*f*) is thus the standard of assessment; the rent given by the actual tenant is not the necessary measure of rateable value (*g*), and if that rent (whether a dead-rent or otherwise) is so fixed that the actual occupier derives no profit from the mine, he is nevertheless rateable (*h*) at the rent which a tenant would give who was not burdened by such an agreement. The hereditament is to be rated as it stands (*i*), and if the occupier has added buildings, plant, and machinery for which he makes no payment of rent to his landlord, some addition must be made to the rent he actually pays in order to arrive at the net annual value (*k*). Conversely, and upon the same principle, if the mine is exhausted (*l*), or flooded out (*m*), there is no net annual value, although an agreement is still current under which rent has to be paid.

(*d*) *Infra*, p. 166; though only coal-mines were held to be rateable up to the passing of the Rating Act, 1874, that Act, while bringing all other mines into rateability by s. 3 (3), set up a special standard of assessment only for mines of the classes referred to in the text.

(*e*) S. 22 (1) (*b*), *supra*, p. 154.

(*f*) *Supra*, p. 126.

(*g*) *Supra*, p. 125.

(*h*) *R.* v. *Parrot* (1794), 5 T. R. 593.

(*i*) *Supra*, pp. 131–134.

(*k*) *R.* v. *Lord Granville* (1829), 9 B. & C. 188; but see *Davis* v. *Pontypridd Union*, *infra*. As to the rating of machinery & plant, *vide infra*, note (*g*).

(*l*) *R.* v. *Bedworth Inhabitants* (1807), 8 East, 387; see *Farnham Flint, etc., Co.* v. *Farnham Union*, [1901] 1 Q. B. 272 at p. 284, *infra*, p. 169.

(*m*) *Tyne Coal Co.* v. *Wallsend Overseers* (1877), 46 L. J. M. C. 185.

Royalties are a form of rent calculated as so much per ton of output, instead of being fixed at a lump sum for the year (*n*). Consequently, it is a common and legitimate practice to arrive at the net annual value of a coal mine by applying to the output a royalty at the rate prevailing in the neighbourhood for coal (*o*); this will frequently—but not always—correspond with the rate of royalty paid by the actual occupier of the particular colliery. The rate of royalty taken for this purpose may be fixed so as to include a payment to the landlord for the surface plant and works (*p*); but if it is not so fixed, there must be added to the sum which results from applying the royalty to the output, an annual sum representing the rent of the surface plant and works. This may be arrived at by a standard of comparative rentals, or by percentages on capital values (*q*).

The output to which the royalty so fixed should be applied is not necessarily the output of the preceding year, though it is often the practice to use this figure in the computation. The test is what the hypothetical tenant will give for the coming year, and if there is a substantial probability—by reason of a strike or otherwise—that the output of the coming year will be less than that of the preceding year, the calculation must not be based on the larger output (*r*). If the mine

(*n*) *R.* v. *Westbrook*, *R.* v. *Everist* (1847), 10 Q. B. 178, *infra*, p. 169; see also *R.* v. *Lord Granville*, *supra*.

(*o*) *Davis* v. *Pontypridd Union* (1916), 80 J. P. 377; *Durham County Council* v. *Tanfield Overseers*, [1923] 2 K. B. 333.

(*p*) As it was in *Davis* v. *Pontypridd Union*, *supra*.

(*q*) *Supra*, p. 144; only such of the machinery and plant as is included in the statement in force under s. 24 of the Act of 1925 is to be rated; the remainder is left out of account, *vide supra*, pp. 160, 161.

(*r*) *Durham C. C.* v. *Tanfield Overseers*, *supra*; cf. the observations made on *Hoyle and Jackson* v. *Oldham Union*, *supra*, p. 134.

extends under more than one parish or rating area, the net annual value in each is to be calculated according to the tonnage actually got from under that parish, etc., though the whole may be brought to the surface by one shaft (*s*); in such a case a "shaft-rent" is sometimes added in the parish where the shaft is, calculated according to the amount of "foreign" coal brought through it.

On the other hand, it is also legitimate (*t*) to estimate the net annual value upon a basis of gross receipts, after deducting from them the necessary working expenditure, usual tenant's rates (*u*), and a share of profits for the tenant (*x*), as well as expenses of repair, insurance and maintenance (*y*). Profits arising from the manufacture of the products of the mine must not be regarded; thus, the net annual value of a chalk-pit is not to be increased because its occupier is also the occupier of an adjoining cement-works (*z*).

Even if the rest of the mine and its appurtenances are valued on a basis of profits, it would seem therefore advisable that the net annual value of coking-ovens and other plant for the manufacture of bye-products

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(*s*) *R.* v. *Foleshill* (1835), 2 Ad. & E. 593. If the mine extends under the sea, the tonnage got from that part should be excluded, *supra*, p. 59; and a shaft-rent added.

(*t*) *Denaby and Cadeby Colliery Co.* v. *Doncaster Union* (1898), 62 J. P. 343; see also pp. 140, 141, *supra*; the method is similar to that applied to railway undertakings, which see, *infra*, p. 184. The provisions of s. 24 (1) of the Act of 1925 as to machinery and plant do not apply where the valuation is made on this basis; see also sub-s. (10).

(*u*) *Vide supra*, p. 135.

(*x*) *R.* v. *Attwood* (1827), 6 B. & C. 277. (*y*) *Infra.*

(*z*) *R.* v. *North Aylesford Union* (1872), 37 J. P. 148; the observations of the Judges as reported seem to cover a wider ground, but, in view of the subsequent decision in the *Denaby* case, *supra*, they should be read as applicable only to the point stated in the text.

should be separately ascertained according to structural value, or to a comparison of rentals (*a*).

Expenses of repair, etc.—According to the definition of net annual value (*b*), the rent is to be estimated on the assumption that the hypothetical tenant bears the cost of the repairs and insurance, and the other expenses necessary to maintain the hereditament in a state to command that rent. If it is estimated on a basis of royalties, with or without a rent for surface-works, the tenant is assumed to form an estimate of the average annual sum that he must set aside to meet repairs, etc., before agreeing to those royalties or that rent; if on a basis of profits, an actual deduction is made of the average cost (*c*). In either case, the expense of winning the minerals or sinking shafts cannot be set aside or deducted (*d*); but the expenses of maintaining permanent main roads and permanent main airways are to be so (*e*). The tenant must not be assumed to set aside any annual sum to provide for the ultimate renewal of the hereditament, apart from works, etc. (*f*).

Tin, lead, and copper mines.—Tin, lead, and copper mines are assessed by methods which differ according to the conditions under which the mine is held. If the dues are for the time being reserved wholly in kind, the lessor is rateable for the mine, the lessees for the surface works, as has been seen; and the ordinary definition of net annual value applies to both of these

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(*a*) Cf. pp. 144, 160, *supra*.

(*b*) *Supra*, p. 154.

(*c*) *Denaby Colliery Co.* v. *Doncaster Union* (1898), 62 J. P. 343.

(*d*) *R.* v. *Attwood* (1827), 6 B. & C. 277.

(*e*) *John Brown, Ltd.* v. *Rotherham Union* (1900), 64 J. P. 580.

(*f*) See the observations in *R.* v. *Westbrook*, *infra*, p. 169, 10 Q. B. at p. 203.

rateable hereditaments (*g*). Surface-works, such as a watercourse constructed to bring water to the mine, are to be valued at the rent which a tenant might be expected to give, who was also about to become the occupier of the mine itself (*h*).

But where a tin, lead, or copper, mine is let, on a reservation wholly or partly of dues or rent, and without fine, the net annual or rateable value is equivalent to the annual amount of dues payable in the year ending on the preceding December 31, in addition to any annual fixed rent which is not (under the lease) satisfied by the dues; where the lessor is liable for repairs, insurance, and other expenses of maintenance these are to be deducted (*i*); where the lessee is liable for these, the dues or rent reserved are already on that account fixed on a lower scale. The above rule must be applied even though a part of the mine has been abandoned since the preceding December 31 (*k*).

Again, where the lease is granted wholly or partly on a fine, where the mine is occupied and worked by the owner, and in any circumstances other than those indicated above, the net annual or rateable value is to "be taken to be the annual amount of the dues, "or dues and rent, at which the mine might be reason- "ably expected to let without fine on a lease of the

(*g*) *Supra*, p. 154; *Van Mining Co.* v. *Llanidloes Overseers* (1876), 1 Ex. D. 310. A mine so held is not affected by the Rating Act, 1874; see s. 13, *supra*, p. 63.

(*h*) *Talargoch Lead Mining Co.* v. *St. Asaph Union* (1868), L. R. 3 Q. B. 478; see also *Guest* v. *East Dean Overseers* (1872), L. R. 7 Q. B. 334; *Kittow* v. *Liskeard Union* (1874), L. R. 10 Q. B. 7.

(*i*) Act of 1874, s. 7, first two paragraphs. As to what is included in such expenses, *vide supra*, p. 166. All such mines were rendered rateable by s. 3 (3) of the Act of 1874, *supra*, p. 19. As to deduction by the lessee, *vide supra*, p. 63.

(*k*) *East Pool and Agar, Ltd.* v. *Redruth Assessment Committee*, [1923] 2 K. B. 405; contrast *R.* v. *Bedworth*, *supra*, p. 163, note (*l*), as to coal-mines.

"ordinary duration according to the usage of the "country," if the tenant undertook to pay rates, repairs, etc. (*l*), as he is assumed to do under the ordinary definition of "net annual value." The difference is that the tenancy is here assumed to be something more than a tenancy from year to year, with a mere prospect of continuance (*m*).

The net annual value arrived at by either of the definitions contained in s. 7 of the Act of 1874 covers surface plant, works, etc. (including smelting works), as well as the underground workings (*n*); and "dues" include royalties even though payable partly in kind (*o*).

Brickfields, gravel-pits, etc.—The fact that brickfields, gravel-pits, and similar surface workings are rapidly exhausted, so that the actual area of land being worked is frequently shifted, has an important bearing on their valuation. It is true that, speaking generally, their net annual value is to be estimated on the same principles as that of a coal-mine, or a slate quarry; thus, where a brickfield is let at a rent certain with the addition of a royalty for every 1000 bricks made, it is quite legitimate to calculate the net annual value by adding together the rent and the probable amount of royalty, subject always to this limitation (which applies equally to all classes of hereditaments) that the resultant sum must not exceed the rent that a hypothetical tenant could be expected to pay for the land, in order to use

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(*l*) Act of 1874, s. 7, 3rd para. (*m*) *Supra*, p. 126.

(*n*) S. 7, last para; *Snailbeach Mine Co.* v. *Forden Guardians* (1876), 35 L. T. 514. If any of the works, etc., are situated in a different parish or rating area, the net annual value must be apportioned, *ibid.*; as to minerals got in another parish, see *R.* v. *Foleshill*, *supra*, p. 165.

(*o*) Where dues are payable wholly in kind, s. 7 does not apply, see note (*g*), *supra*.

it as a brickfield (*p*). The calculation of the amount of the royalty according to the number of bricks made in the preceding year will be appropriate only if a similar number is likely to be made in the ensuing year; for the inquiry is—what rent a tenant will give for the coming year; the rapid rate of consumption must affect his views, and the amount worked out in the previous year is not the necessary basis of that rent (*q*). Therefore, where the occupiers of a gravel-pit have "purchased" the gravel at so much per acre, and have worked out a part of it, the net annual value is to be estimated according to the rent which a tenant might be expected to give for the unexhausted land, without including that which is already worked out; but if this latter is used for storage, the rent that would be given for that purpose is to be added (*r*). The rent per acre for the unexhausted land may be based not only on the price agreed to be paid for the gravel, but also upon the cost of carrying out a covenant to reinstate the surface after working, if such a covenant forms part of the agreement (*s*).

Cemeteries and burial-grounds.—Burial-grounds provided by Burial Boards (or the authorities who have succeeded them) are assessed according to an exceptional principle (*t*); but a cemetery carried on by a

(*p*) *R.* v. *Westbrook*, *R.* v. *Everist* (1847), 10 Q. B. 178. The expenses of repair, etc., will be excluded, as in the case of a mine, *vide supra*, p. 166.

(*q*) *Durham C. C.* v. *Tanfield Overseers*, *supra*, p. 164, [1923] 2 K. B. *per* AVORY, J., at p. 342.

(*r*) *Farnham Flint, etc., Co.* v. *Farnham Union*, [1901] 1 Q. B. 272. The decision in *R.* v. *Whaddon* (1875), L. R. 10 Q. B. 230, where under the agreement the occupation shifted so as to take in fresh land as soon as some of the land was exhausted, appears to be obsolete since the *Farnham* case. (*s*) See *per* COCKBURN, C.J., L. R. 10 Q. B. at p. 240.

(*t*) Burial Act, 1855, s. 15, *supra*, p. 91.

commercial company (*u*), or a burial ground provided under the Church Building Acts (*x*) as an extension of the parish churchyard, is in the beneficial occupation of the company or the incumbent, and is assessable according to the general principles which govern the valuation of a hereditament adapted for a use by which profit is made (*y*). Both cemeteries and burial-grounds of this kind appear to be "public utility undertakings" (*z*); and if this is so, their net annual value is to be ascertained in the first instance, and no gross value is to be estimated (*a*).

The rent which a tenant might be expected to pay for a cemetery may properly be estimated by reference to the gross receipts which can be made thereon, after deducting the expenditure necessary to earn those receipts, and a share of the profits sufficient to induce him to take the tenancy (*b*), in the same way as the net annual value of a public utility undertaking, such as a water undertaking, is to be estimated (*c*). Payments received for the sale of burial rights in perpetuity (*d*), and even payments received for the sale in fee simple of the burial plots (*e*), are to be included in the gross

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(*u*) *R.* v. *St. Mary Abbotts* (1840), 12 Ad. & E. 824, *supra*, p. 41.

(*x*) *Winstanley* v. *North Manchester Overseers*, [1910] A. C. 7, *supra*, p. 54.

(*y*) *Supra*, pp. 140 *sqq.*

(*z*) Second Sched., Part I, Note.

(*a*) S. 22 (1) (*b*). The observations in the text are framed on the assumption that this view is correct; but even if the definition of gross value were held to be applicable the decisions here cited must be followed; save that, instead of setting aside the probable expenses of repair, etc., a deduction of 10 per cent. must be made from gross value to arrive at net annual value, Second Sched., Part I, class 6.

(*b*) *R.* v. *St. Mary Abbotts*, *supra*; *R.* v. *St. Giles, Camberwell* (1850), 14 Q. B. 571. (*c*) *Infra*, p. 176.

(*d*) *R.* v. *St. Mary Abbotts*, *supra.*

(*e*) *R.* v. *Abney Park Cemetery Co.* (1873), L. R. 8 Q. B. 515.

receipts for this purpose. But it must be borne in mind that the profits to be expected in the coming year are the basis of the rent which is to satisfy the definition of net annual value; and the receipts of the preceding year may not afford the necessary guidance, where, for instance, the cemetery is nearly full (*f*). If any part of the directors' fees is not expended in connection with the occupation of the particular cemetery, that part cannot be deducted in arriving at the net profits (*g*); but any part expended for that purpose will be deducted (*h*). The expenses of repair and maintenance to be set aside will be arrived at on the same principles as those of a coal-mine or a brickfield (*i*).

Where a burial-ground occupied by the incumbent of a parish is being valued, the net annual value will be arrived at on the same principles as the above, and the fees received by him for the sale of freehold graves, for re-opening graves, etc., will be included in the gross receipts; but fees for the performance of burial services will be excluded, not being referable to the occupation of the hereditament (*k*).

(*f*) The observations of BLACKBURN, J., on this point in the case last cited were not adopted by the C. A., in *Farnham Flint, etc., Co.* v *Farnham Union, supra*, p. 169; [1901] 1 K. B., pp. 281, 283; see *Durham C. C.* v. *Tanfield Overseers, supra*, p. 169.

(*g*) *R.* v. *St. Giles, Camberwell, supra.*

(*h*) *R.* v. *Southampton Docks Co.* (1851), 14 Q. B. 587, *infra*, p. 198.

(*i*) *Supra*, p. 166; but see note (*a*), *supra.*

(*k*) *North Manchester Overseers* v. *Winstanley*, [1908] 1 K. B., at p. 840.

CHAPTER IX

RATEABLE VALUE—*continued*

Public Utility Undertakings

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Public utility undertakings.—The net annual value of "hereditaments valued as part of any railway, "dock, canal, gas, water, electricity or other public "utility undertaking" is arrived at without reference to gross value, and according to the definition of "net "annual value" (*a*). Such portions of these undertakings as are capable of being separately let and of being used for other purposes than those of the undertaking are not "valued as part of the undertaking" and accordingly gross values have to be ascertained for them, and their net annual and rateable values to be derived from the gross value; such are railway hotels and refreshment-rooms (*b*), and warehouses owned by a dock or harbour authority (*c*). It is immaterial whether these hereditaments are physically connected with the

(*a*) S. 22 (1) (*b*), read with Note to Part I of the Second Sched.; the definition is set out, *supra*, p. 154. As to cemeteries and burial-grounds, *vide supra*, p. 169.

(*b*) See *North Eastern Rail. Co.* v. *York Union*, [1900] 1 Q. B. 733, *supra*, p. 56.

(*c*) *Mersey Docks and Harbour Board* v. *Birkenhead Overseers* (1873), L. R. 8 Q. B. 445, *supra*, p. 56; *London and India Docks* v. *Poplar Union* (1900), 64 J. P. 820, Ryde and Konstam, 245; *Young* v. *Liverpool Assessment Committee*, [1911] 2 K. B. 195, *supra*, p. 39.

railway or dock undertaking (*d*), or whether they are in fact occupied by the undertakers (*e*).

Certain portions of railway, canal, docks and water undertakings, situate in county boroughs and urban districts, receive a reduction from net annual value in arriving at rateable value (*f*); for the remainder, the rateable value is the same as the net annual value (*g*).

Principles of estimating net annual value.—Apart from sewerage undertakings, the expenses of which are met wholly out of rates, such public utility undertakings, as railway, docks, canal, gas, water, electricity, tramway, hydraulic power and similar undertakings, though carried on partly for the discharge of public duties, are paid for to a greater or less extent by charges made to the public—and are therefore carried on, partly at any rate, for the purpose of earning those receipts. The hereditaments which are valued as parts of these revenue-producing undertakings are, for purposes of valuation, divided into two classes, namely, those parts of the undertaking which are directly productive of profit, and those which are only indirectly productive (*h*).

The net annual value of the directly productive parts of a public utility undertaking is to be arrived at upon the basis of the gross receipts earned on the undertaking (*i*), unless "there are special circumstances

(*d*) They were so connected in the *York, Birkenhead,* and *Liverpool* cases, but not in *London and India Docks* v. *Poplar.*

(*e*) In *Young* v. *Liverpool Assessment Committee,* the bonded warehouses were separately occupied; in the other cases above cited, the hotel and warehouses were occupied by the railway company or dock authority.

(*f*) *Infra,* pp. 188, 192, 200. (*g*) S. 22 (1) (*c*), *vide supra,* p. 154.

(*h*) See p. 177. This division does not apply to ferries, bridges, or markets.

(*i*) *Great Central Rail. Co.* v. *Banbury Union,* [1909] A. C. 78,

" sufficient to make it necessary to exclude the recog-
" nised formula of assessment and to resort to some
" other principle " (*k*). The net annual value of those parts of a public utility undertaking which are indirectly productive of revenue, are usually arrived at upon what is called " the contractor's basis," viz. the estimation of structural or capital value and the application of percentages thereto (*l*). So also are the net annual values of the hereditaments forming part of a sewerage or other undertaking which does not produce revenue at all (*m*). But, where the hereditaments assessed form part of a revenue-producing whole, their net annual value (and incidentally, any percentages applied to their capital value (*n*)) must always be limited by the profit-bearing capacity of the whole ; for the cardinal principle in assessing any parts of such an undertaking

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infra, p. 182. *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C. 331, *infra*, p. 207.

(*k*) *Ibid.*, *per* Lord CAVE, L.C., at p. 345 ; see also *per* Lord BUCKMASTER, at p. 352, and *per* Lord BLANESBURGH, at p. 354 ; and *Great Central Rail. Co.* v. *Banbury Union*, [1909] A. C., *per* Lord LOREBURN, L.C., at p. 87 ; and *per* Lord DUNEDIN, at pp. 94, 95. These decisions, as summarised in the text, and especially that in the *Kingston* case, limit the discretion (which was previously held to reside in assessing authorities and courts of quarter sessions) to choose among conflicting methods that which seemed to them most appropriate ; see *e.g. North and South Western Junction Rail. Co.* v. *Brentford Union* (1888), 13 A. C. 592 ; *Mersey Docks Board* v. *Birkenhead Union*, [1901] A. C. 175, at p. 180 ; *East London Rail. Joint Committee* v. *Greenwich Union*, [1913] 1 K. B. 612, at pp. 621, 630.

(*l*) Cf. pp. 144, 145, *supra*, and see the observations on this matter in connection with water undertakings, *infra*, pp. 215–217.

(*m*) Contributions from sanitary authorities other than that which owns the undertaking may be neglected for this purpose. The observations of Lord HERSCHELL, L.C., in *London County Council* v. *Erith*, *supra*, p. 129 ; [1893] A. C., at pp. 592–3, must be read in conjunction with the more recent decision of the H. L. in *Metropolitan Water Board* v. *Chertsey Union*, [1916] 1 A. C. 337, *infra*, p. 216.

(*n*) *Vide infra*, p. 217.

is that the net annual value must be estimated in view of all the existing circumstances, which include the ability to carry on a gainful trade, as well as the limitations of the trade that can be carried on (*o*). But most public utility undertakings of the revenue-producing class extend into more than one parish or rating area (*p*); indeed, it is exceptional that they should not do so. This fact has brought about an important difference of practice; with regard to railway, canal, and dock or harbour undertakings, an altogether separate valuation is made of those directly productive parts of the undertaking which are situate in the particular parish; the calculation commences with the gross receipts earned in that parish, the expenses incurred in that parish are deducted (including the expenses of repair and maintenance of those parts, as well as tenant's rates); and where these expenses cannot be ascertained separately, the deduction takes the form of an allocated part of the general expenses of the undertaking, including in that expression the net annual value and rates of the indirectly productive parts of the undertaking as a whole; the tenant's share of the profits of the whole undertaking is similarly allocated and deducted (*q*). The net annual value of any indirectly productive

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(*o*) *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18, *supra*, p. 128.

(*p*) It is only where a rating area is co-terminous with a parish, as defined in the Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rule 1 (2) (see Appendix), that a single entry can be made in the valuation list for all the parts of an undertaking situate in a rating area; where the rating area comprises one or more parishes, as there defined, there must be a distinct portion of the valuation list with separate entries for each parish, rule 3, *vide supra*, p. 112. The word "parish" will therefore be used in the text, to avoid repeating the expression "parish" or rating area."

(*q*) The details of such a calculation will be considered below, pp. 183–200.

parts situate in the particular parish is then arrived at independently but upon the same principle as was applied for purposes of deduction. In theory, the total of the net annual values of the parts of the undertaking situate in the various parishes into which the undertaking extends ought not to exceed the net annual value of the undertaking considered as a whole (*r*); in practice, it has frequently done so.

On the other hand, where a water, gas, electricity, or tramway undertaking extends into more than one parish, the approved method is to commence with the gross receipts of the whole undertaking, and to ascertain, by deduction therefrom of the expenditure incurred to earn them (including expenses of repair and maintenance and tenant's rates (*s*)) and of the tenant's share of profits, the net annual value of the whole undertaking. From this sum so ascertained, is deducted the net annual value of the whole of the indirectly productive parts of the undertaking, the remainder being the net annual value of the whole of the directly productive parts; this remainder is then allocated to the directly productive parts in the particular parishes (*t*). The net annual value of any indirectly productive part situate in the particular parish is then arrived at on the same principle as that of the whole of such parts, estimated for the purposes of deduction. The total of the net annual values of the parts situate in the various parishes must not exceed the net annual value of the

(*r*) *Great Central Rail. Co.* v. *Banbury Union, Sheffield Union* v. *Great Central Rail. Co.*, [1909] A. C. 78.

(*s*) It is immaterial at what stage of the calculation and apportionment these expenses are deducted, so long as this is done consistently with regard to the whole undertaking, or the various parts.

(*t*) The details of such a calculation and apportionment will be considered in Chap. XI.

undertaking as a whole (*u*); and the method of first arriving at the total figure, and afterwards distributing it, ought effectually to prevent such a result.

The above methods of valuation are applicable equally whether the undertaking is in the hands of a company which distributes profits among its shareholders, of a statutory body which is bound to devote any surplus (after paying interest on loans or stock) to the improvement of its undertaking (*x*), or of a municipal corporation or other local authority, which can fall back upon the rates in order to make up any deficiency in revenue (*y*).

Directly and indirectly productive parts.—The distinction drawn between those parts of a revenue-producing undertaking which directly produce profits and those which produce them indirectly (*z*) is not a logical distinction, nor can its relation to actual fact be put higher than is done in the following sentences: "Where the profit arises from transit, the line of the "canal or railway is directly productive of the profit, "and the reservoirs, warehouses, stations, etc., indirectly "conduce to such production. . . . In the case of water "companies, where the profit arises from the delivery "of water at a given place, the previous transit being "immaterial to the consumer, the service pipes "immediately produce the profit, and the agency by "which the water reaches those pipes indirectly

(*u*) *R.* v. *West Middlesex Waterworks Co.* (1859), 28 L. J. M. C. 135; *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C. 331.

(*x*) *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273, *infra*, p. 199.

(*y*) *Kingston Union* v. *Metropolitan Water Board*, *supra*, approving *Worcester Corporation* v. *Droitwich Assessment Committee* (1876), L. R. 2 Ex. D. 49, *infra*, p. 208.

(*z*) *Supra*, p. 173.

"conduces to such production" (*a*). But, well-founded or not, this distinction has become, as has been seen above, an integral part of the law which governs the method of assessing and apportioning the net annual value of the hereditaments valued as parts of such undertakings (*b*). Thus in a railway undertaking, the running lines are treated as directly productive, while the stations, the platforms, and even the sidings are considered to be only indirectly productive; in a water undertaking the intakes, reservoirs, and carrying or "dead" mains fall within the latter class, while the "live" mains or service pipes alone are "directly productive" (*c*).

Rateable values.—When the net annual values of directly and indirectly productive portions in any particular parish have been fixed, there still remain, in urban parishes, deductions to be made in respect of certain classes of hereditaments included in the undertaking, before arriving at rateable values (*d*). This classification (where it has to be made) is made upon different principles from the division between directly and indirectly productive works (*e*). In rural parishes, and as regards those parts in urban parishes which do not enjoy any such reduction, the rateable value is the same as the net annual value (*f*); but in rural parishes

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(*a*) *R.* v. *Mile End Old Town* (1847), 10 Q. B. 208, *per* Lord DENMAN, C.J., at p. 221.

(*b*) See *per* Lord CAVE, L.C., in *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C., at pp. 339, 340.

(*c*) The practical application of the distinction in each class of undertaking will be considered below in connection with that class.

(*d*) S. 22 (1) (*c*), and Second Sched., Part II, classes 3 (*a*), (*b*).

(*e*) The hereditaments referred to are described, and the principles applicable are indicated, *supra*, pp. 102, 103.

(*f*) S. 22 (1) (*c*).

there is a partial exemption from the special rate (*g*) for hereditaments of similar classes to those above mentioned. In urban parishes, therefore, the net annual values and rateable values of the parts of the undertaking which fall within those classes, and in rural parishes the rateable values of those parts, are to be separately entered in the valuation lists (*h*).

(*g*) S. 3 (2), *supra*, p. 103.

(*h*) Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, Rules 4 (*a*), 5; *supra*, p. 120, note (*o*).

CHAPTER X

RATEABLE VALUE—*continued*

Railways; Canals and Navigations; Harbours and Docks; Ferries and Bridges; Markets

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Railways: directly and indirectly productive parts.—The directly productive portions of a railway undertaking (*a*) are the running lines, which expression includes, not only "through" running lines, but lines used for the relief of such lines, and even short lines coming to a "dead end"; provided that their principal and primary purpose is the carrying of traffic from one point to another (*b*). But sidings used primarily for

(*a*) *Vide supra*, p. 177.

(*b*) *Stockport Union* v. *L. and N. W. Rail. Co.* (1898), 78 L. T. 180; *G. N. Rail. Co.* v. *Edmonton Union* (1905), 1 Konstam, 186; *Taff Vale Rail. Co.* v. *Cardiff Union* (1907), 2 Konstam, 486.

the purposes of shunting or marshalling traffic are indirectly productive parts (*c*); as also are signal-boxes, signals and levers (*d*); together with stations, platforms, loading banks, goods warehouses, locomotive sheds, repairing shops, and indeed it may be said all the other appurtenances of a railway undertaking (*e*).

Running lines valued on basis of gross receipts.—As to the running lines of a main line, it has for many years been settled that the valuation must be made upon a basis of profits (*f*). But the question whether the running lines of a branch line, or of a line which constitutes a link between two systems, where sufficient profits to show a substantial net annual value are not earned on the branch or link line, can be assessed according to any other method (that is, at any more than a nominal sum) was long discussed in the Courts. That question has now been answered in the negative by the House of Lords, both where the line was owned by a single railway company (*g*), and where it was vested by statute in two companies jointly, and carried on by a

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(*c*) See the two cases last cited.

(*d*) *Midland Rail. Co.* v. *Pontefract Union*, [1901] 2 K. B. 189; *G. N. Rail. Co.* v. *Edmonton*, *supra*.

(*e*) The cases cited, *supra*, p. 103, as to the parts entitled to a reduction in arriving at rateable value afford no guidance here.

(*f*) *R.* v. *L. and S. W. Rail. Co.* (1842), 1 Q. B. 558; *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18; *R.* v. *L. B. and S. C. Rail. Co.* (1851), 15 Q. B. 313; *R.* v. *G. W. Rail. Co.* (1852), *ibid.*, 379, 1085; *G. W. Rail. Co.* v. *Melksham Union* (1870), 34 J. P. 692; *N. and S. W. Junction Rail. Co.* v. *Brentford Union* (1888), 13 A. C. 592.

Valuations on this basis made by Courts of Quarter Sessions will be found in *S. E. Rail. Co.* v. *Dorking Union* (1898), Ryde and Konstam, 71; *G. N. Rail. Co.* v. *Hitchin Union* (1906), 1 Konstam, 116; *G. E. Rail. Co.* v. *Bishop's Stortford Union* (1910), Konstam and Ward, 19.

(*g*) *Great Central Rail. Co.* v. *Banbury Union*, [1909] A. C. 78, *supra*, p. 176. The earlier cases are there reviewed.

joint committee (*h*). In the *Banbury* case, however, room was left for possible exceptions to the rule (*i*); and in the interval between these two decisions of the House of Lords, it was held by the King's Bench Division that, where the profits earned on a branch line owned by one railway company had been kept down owing to an agreement to cease competition with another railway company, it was legitimate to estimate the rent which a third person might give for the line in the hope of making greater profits on it than were actually made (*k*); and it was held by the Court of Appeal, that where the line was a link between the systems of six railway companies, and was let to those companies jointly at a rent, it was legitimate to fix the net annual value at more than a nominal sum in view of the " posi- " tion, connections, and accommodation " of the line (*l*). The *Thrapston* case can hardly be considered good law since the decision in the *Great Western and Metropolitan Railways* case; but in this last-mentioned decision of the House of Lords, the *East London* case was expressly distinguished on the ground that the *East London Railway* could not in any sense be regarded as an integral portion of the system of any of the lessee companies, and because there was an actual rent to throw light on annual value (*m*).

Except, therefore, in any case where there exist such very special circumstances as were found in the *East London Railway* case (*n*), the net annual value of

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(*h*) *G. W. and Metropolitan Rail. Co.* v. *Kensington Assessments Committee*, [1916] 1 A. C. 23, *supra*, p. 130.

(*i*) [1909] A. C., at pp. 87, 94, *supra*, p. 173.

(*k*) *L. and N. W. Rail. Co.* v. *Thrapston Union* (1912), 77 J. P. 25.

(*l*) *East London Rail. Joint Committee* v. *Greenwich Union*, [1913] 1 K. B. 612.

(*m*) [1916] 1 A. C., pp. 39, 45, 47, 53.

(*n*) [1913] 1 K. B. 612.

that part of a railway undertaking which is constituted by the running lines of a parish is to be ascertained by a valuation which starts from the basis of the gross receipts earned on those lines in that parish (*o*).

Calculation of gross receipts.—The gross receipts are ascertained for the year nearest to the time of assessment for which accounts are available (*p*) by an elaborate process which involves the apportionment, to the mileage of running lines traversed in the parish, of every passenger fare and goods rate paid for that transit (*q*) and of terminal charges in connection therewith, but not including charges for cartage and delivery (*r*).

Where a fixed annual payment is paid to the occupying company by another company for running powers over the line, the actual sum paid is added to the gross receipts and apportioned as above (*s*). Where no payment is received by the occupying company for the running powers, but it reciprocally enjoys running powers over the lines of the other company, an estimated amount must be added (*t*).

(*o*) See the cases cited, *supra*, note (*f*).

(*p*) *R.* v. *L. B. and S. C. Rail. Co.* (1851), 15 Q. B., at p. 367.

(*q*) *R.* v. *St. Pancras Vestry* (1863), 3 B. & S. 810 ; *R.* v. *Stockton and Darlington Rail. Co.* (1863), 8 L. T. 422. As to calculation of mileage where there is a goods yard in the parish, see *G. N. Rail. Co.* v. *Edmonton Union* (1905), 1 Konstam, 186 ; and as to deduction for transit of empty wagons, see *G. N. Rail. Co.* v. *Hunslet Union* (1911), 105 L. T. 544. It is usual to calculate the gross receipts for two typical months in the year, and to multiply the result by six.

(*r*) *R.* v. *Eastern Counties Rail. Co.* (1863), 4 B. & S. 58 ; *M. S. and L. Rail. Co.* v. *Caistor Union* (1874), 2 Nev. & Mac. 53.

(*s*) *R.* v. *Fletton Overseers* (1861), 30 L. J. M. C. 89, *infra*, p. 188 ; *Altrincham Union* v. *Cheshire Lines Committee* (1885), 15 Q. B. D. 597 ; as to rateable occupation, *vide supra*, p. 44.

(*t*) *R.* v. *L. B. & S. C. Rail. Co.* (1851), 15 Q. B. 313 ; *Midland Rail. Co.* v. *Badgworth Overseers* (1864), 34 L. J. M. C. 25 ; *G. W. Rail. Co.* v. *The same* (1867), L. R. 2 Q. B. 251.

A railway company is not bound to prove its gross receipts upon objection before an assessment committee (*u*); and in any rating appeal they may be proved by affidavit, etc., subject to cross-examination if required (*x*).

Deductions to arrive at net profits.—From the gross receipts, there must of course be deducted the expenses necessary in order to earn them. Apart from repairs to specific works, these are as a rule ascertainable in the first instance for the whole railway system, and have then to be allocated to the running lines in the parish; the allocation is usually made according to the proportion which the gross receipts (*y*) earned on those lines bear to the gross receipts earned on the whole system. Besides the actual expenses of working the traffic, deductions must be made for the expenses of repairing and maintaining the rolling stock, with a sinking fund to replace it at the end of its "life" (*z*), the Government duty on passenger tickets, and also for the rent assumed to be paid for stations and other indirectly productive works throughout the system, with their repairs and maintenance, because the existence of such works is necessary for the carrying on of a trade on the running lines (*a*); but there is no deduction in assessing part of a main line for the loss incurred on a branch line (*b*). The expenses of repair

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(*u*) *R.* v. *Essex JJ.* (1882), 46 J. P. 724; as to proceedings on objection and appeal, *vide infra*, Chaps. XIII-XV.

(*x*) Railway & Canal Traffic Act, 1888, 51 & 52 Vict. c. 25, s. 48.

(*y*) See above.

(*z*) *G. E. Rail. Co.* v. *Haughley Overseers* (1866), L. R. 1 Q. B. 666; see also *L. & N. W. Rail. Co.* v. *Wigan Union* (1876), 2 Nev. & Mac. 240.

(*a*) *Vide supra*, p. 181.

(*b*) *R.* v. *G. W. Rail. Co.* (1846), 6 Q. B. 179, at p. 205. As to directors' fees, see *R.* v. *Southampton Docks Co.* (1851), 14 Q. B. 587, *infra*, p. 198.

and maintenance of the hereditament itself are also to be deducted, including a sinking fund to replace at the end of their "life" those parts which wear out (*c*). If such expenses cannot be ascertained in the first instance for the particular parish, the expenses incurred over some larger part of the system, where similar requirements for repair and maintenance prevail, are to be ascertained and allocated according to the traffic, that is, to the number of the train-miles run, in the parish (*d*). Expenses of repairing and maintaining a tunnel or a viaduct in a parish are usually deducted in the parish itself; but if there is a work of such an exceptional character that the expenses of repairing and maintaining it ought not to fall on a single parish, it has been held that they may be apportioned in some way over a longer section of the running line (*e*). The "usual tenant's rates" (*f*) must be deducted at an amount based on the rateable value which is the result of the valuation (*g*).

The result of the above deductions will represent the net profits earned on the running lines in the parish.

Tenant's share.—When the expenses which by the definition of net annual value (*h*) the tenant is

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(*c*) *R.* v. *L. B. & S. C. Rail. Co.* (1851), 15 Q. B. 313; *R.* v. *G. W. Rail. Co.*, *ibid.*, p. 1085.

(*d*) Not according to linear miles, *L. & N. W. Rail. Co.* v. *Harborne Overseers* (1870), 34 J. P. 644.

(*e*) See *R.* v. *G. W. Rail. Co.* (1852), 15 Q. B., p. 1089; in practice this passage has not been strictly applied; and in principle it appears to be in conflict with *L. & N. W. Rail. Co.* v. *Harborne*, *supra*.

(*f*) *Supra*, p. 135; there is no deduction for income tax, *R.* v. *Southampton Docks Co.* (1851), 14 Q. B. 587.

(*g*) *Tyne Improvement Commrs.* v. *Chirton Overseers* (1862), 32 L. J. M. C. 192.

(*h*) *Supra*, p. 154.

assumed to undertake have been set aside, the problem of estimating the rent which a tenant might reasonably be expected to give for the running lines is not yet solved. To answer this question, there must be deducted from the net profits, that share of the net profits which the tenant will require to keep for himself either as remuneration, as interest on the capital embarked, or as compensation for risks and casualties (*i*). "Whoever heard of a man giving £100 a year, in order "to get £100 a year? So that really the plan of calcu- "lating on receipts and expenditure breaks down unless "you go on to consider what a tenant would probably "in the circumstances give; or, if you so like to "put it, what margin would he allow himself for "contingencies" (*k*). In the case of a railway, this share is ascertained by a valuation of the amount of capital required by a tenant to work the railway system, and by applying to that capital either a single percentage to cover the three items above mentioned, or separate percentages for each of those items. The capital to be valued includes the rolling stock and other chattels used, at their actual or depreciated values (*l*), and generally also a certain amount of floating cash (*m*). The value of all plant and machinery at repair-shops and so on, which is not actually rated as part of the hereditament on which it stands (*n*), should be included in the tenant's capital; but whether machinery and

(*i*) *R.* v. *G. W. Rail. Co.* (1846), 6 Q. B. 179; earlier decisions had been given on this point with reference to canals, *vide infra*, p. 192, note (*z*).

(*k*) *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273, *infra*, p. 199, *per* Lord DUNEDIN, at p. 298.

(*l*) *R.* v. *North Staffs Rail. Co.* (1860), 3 E. & E. 392; *G. E. Rail. Co.* v. *Haughley* (1866), L. R. 1 Q. B. 666.

(*m*) *R.* v. *North Staffs Rail. Co.*, *supra*.

(*n*) *Vide infra*, p. 188.

plant not so rated may yet be included in the tenant's capital depends on the circumstances of each particular case (*o*).

The tenant's share is allocated to the running lines in the particular parish in proportion to the gross receipts earned upon them, and is deducted from the net profits which have already been ascertained ; the result is the net annual value of those lines.

Value of stations and other indirectly productive works.—In arriving at net profits, as has been seen (*p*), a deduction has to be made for the net annual value of stations, repairing shops, and all other indirectly productive works (*q*), together with the expenses of repairing and maintaining them ; the sum thus estimated for the whole system is apportioned to the running lines in the parish. If any of these works happens to be situate in the parish, its net annual value must be estimated. The same method of valuation should be adopted in either case ; and that which is generally adopted is to ascertain the capital values of land, buildings, and machinery and plant, and to apply an appropriate percentage to each of these (*r*). But if there is a value in the occupation which accrues to some other person than the occupying company, that value is to be brought into account as increasing the net annual value of the station, etc. ; as where a rent is paid by another company for the joint use of a

(*o*) The question was variously answered in the decisions of quarter sessions referred to in note (*f*), *supra*, p. 181; and therefore the saving for the existing " law and practice," contained in s. 24 (10) of the Act of 1925 affords little guidance, if any. See, however, *R.* v. *Southampton Docks Co.* (1851), 14 Q. B. 587, at p. 610, *infra*, p. 200, where it was laid down that rateable machinery should not be included in tenant's capital.

(*p*) *Supra*, p. 184. (*q*) *Vide supra*, p. 181.

(*r*) *Supra*, p. 144 ; *infra*, p. 215.

station (*s*); or where the railway company is (by means of sidings) in occupation of wharves, which also earn wharfage rates for the dock authority (*t*).

With regard to repairing shops and so on, although in fixing such percentages, some regard should be had to the capacity of the whole system for the carrying on of a gainful trade (*u*) (and perhaps to the capacity of the parts situate in the parish), it can hardly be said that these indirectly productive works are "hereditaments" the value of which is ascertained by reference to the "accounts, receipts, or profits of the undertaking "carried on therein" (*x*); accordingly only the machinery or plant in or upon them which is included in the Statement in force under s. 24 of the Act of 1925, can be included in estimating the net annual value; no account is to be taken of the remainder (*y*).

Rateable value of railway lines and works.—The net annual values of the running lines and of any indirectly productive works in the parish having thus been separately ascertained, in a rural parish the rateable value will be the same as the net annual value (*z*). But in county boroughs and urban districts, there is a further deduction to be made before arriving at rateable value, of a percentage of the net annual value of such parts of the undertaking, situate in the parish, as fall within the description of "any land used as a

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(*s*) *R.* v. *Fletton Overseers* (1861), 30 L. J. M. C. 89.

(*t*) *R.* v. *Rhymney Rail. Co.* (1869), L. R. 4 Q. B. 276, *supra*, p. 130.

(*u*) *R.* v. *Grand Junction Rail. Co.* (1844), 4 Q. B. 18, *supra*, p. 140.

(*x*) Act of 1925, s. 24 (1); this question may have to be answered differently with regard to the indirectly productive works of, *e.g.*, waterworks or gas-works, where the value of the whole undertaking is estimated by reference to such accounts, *vide infra*, p. 215.

(*y*) *Vide supra*, p. 161.

(*z*) S. 22 (1) (*c*), *supra*, p. 154.

railway constructed under the powers of any Act for public conveyance " (*a*). The running lines are within this description ; but so also are certain parts of the indirectly productive works, such as portions of platforms, loading ways and so forth (*a*).

In an urban parish, therefore, the net annual values and rateable values of running lines and of those other parts are to be shown in the valuation list separately from the rest ; in a rural parish their rateable values are to be so shown (*b*).

Canals and river navigations : Gross receipts. —Under a number of local Acts for the construction of canals or navigation works, special principles of valuation are enacted which are still preserved in force (*c*). Where no such statutory provision applies, the principles under which the net annual values of hereditaments valued as parts of canals, or of river navigations (so far as the latter are the subject of rateable occupation (*d*)), are similar to those which govern the estimation of the net annual values of the running lines of railways (*e*). The distinction (*f*) between various portions of the railway and other undertakings as being directly and indirectly productive of profit has not been carried to such a length as in the case of railways (*g*) ; and where there is a lock or other work for the use of which dues are specifically payable, the receipts from such dues are included in the gross receipts of the parish in which

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(*a*) 2nd Sched. Part II, classes 3 (*a*) and (*b*) ; *vide supra*, p. 103.
(*b*) The reason is indicated, *supra*, pp. 104, 120.
(*c*) *Vide supra*, pp. 92–94. (*d*) *Supra*, p. 29.
(*e*) *Supra*. (*f*) *Supra*, p. 177.
(*g*) See the judgment of BAYLEY, J., in *R.* v. *Lower Mitton* (1829), 9 B. & C. 810 ; but as to works from which the canal receives its water, *vide infra*, p. 191, note (*q*).

that lock or work is situate (*h*). Apart from such specific charges, if the rates of toll receivable are higher in one parish through which the canal passes than in another, or if the traffic is greater in one parish than in another, the actual amounts received in that parish must be brought into the gross receipts (*i*); but as regards any traffic which passes along the whole line of the canal, or along any part which includes the particular parish, at a uniform rate of toll, the gross receipts from that traffic may be apportioned to the parish by a mileage calculation; any receipts in respect of traffic which does not pass through the parish are excluded (*k*). The fact that the tolls, though paid for the use of the canal, are payable at a particular wharf on landing is immaterial (*l*).

On the other hand, if a rent recently fixed is actually being paid for a canal, it may afford a better criterion of value than a calculation based on gross receipts (*m*); but where a canal is let in perpetuity to a railway company, on the terms of the company making up to a certain standard any deficiency in the canal earnings,

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(*h*) *R.* v. *Lower Mitton*, *supra*, and see *R.* v. *Cardington* (1777), 2 Cowper, 581, *supra*, p. 27. It does not necessarily follow that because payments are received *at* a lock, they are payments for the use of the lock, or indeed of the canal; where they are not, they must not be included in the gross receipts, *R.* v. *Aire and Calder Navigation Co.* (1832), 3 B. & Ad. 533.

(*i*) *R.* v. *Kingswinford* (1827), 7 B. & C. 237.

(*k*) *R.* v. *Oxford Canal Co.* (1825), 4 B. & C. 74; *Same* v. *Same* (1829), 10 B. & C. 163; *R.* v. *Woking* (1835), 4 Ad. & E. 40. As to the method of proving gross receipts see Railway Traffic Act, 1888, s. 48, *supra*, p. 184, note (*x*).

(*l*) *R.* v. *Milton* (1819), 3 B. & Ald. 112; *R.* v. *Palmer*; *R.* v. *Earl of Portmore* (1823), 1 B. & C. 546, 551.

(*m*) *R.* v. *Chaplin* (1831), 1 B. & Ad. 926; cf. *East London Rail. Joint Committee* v. *Greenwich Union*, [1913] 1 K. B. 612, *supra*, p. 182; generally as to the bearing of actual rents, see pp. 125, 126, *supra*.

the payments made under this agreement are not to be regarded in arriving at net annual value, whether upon a basis of gross receipts or otherwise (*n*).

A statutory payment of a share of the tolls to some person other than the occupier must not be excluded from the gross receipts (*o*).

Deductions.—The expenses incurred in respect of carrying on the canal undertaking in the parish, if they can be separately ascertained, must be deducted; if they cannot, and the expenses of the whole undertaking are equal throughout the line, a mileage proportion of those expenses is deducted (*p*). The "reasonable "expense of supplying water" to the canal must be deducted (*q*), an item which includes a proportion of the net annual value of reservoirs or intakes with the expenses of their repair and maintenance (*r*). Expenses of collecting the tolls must of course be deducted (*q*); as well as usual tenant's rates, calculated on the ultimate rateable value (*s*). The expenses of repair and maintenance may be apportioned according to mileage if they are equal throughout the line (*t*); but if, for instance, the banks require more repair in one parish than in another, the actual expenses incurred in the parish must be deducted (*u*). It has, indeed, been held that the

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(*n*) *R.* v. *Lapley Overseers* (1868), 9 B. & S. 568.

(*o*) *R.* v. *Woking* (1835), 4 Ad. & E. 40, *supra*, p. 190; cf. *R.* v. *Rhymney Rail. Co.* (1869), L. R. 4 Q. B. 276.

(*p*) *R.* v. *Woking* (1835), 4 Ad. & E. 40; see also *R.* v. *Kingswinford*, *supra*. See also deductions in regard to railways, *supra*, p. 184.

(*q*) *R.* v. *Tomlinson* (1829), 9 B. & C. 163; *R.* v. *Oxford Canal Co.* (1829), 10 B. & C. 163.

(*r*) Cf. the "station fund" in the case of a railway, *supra*, p. 187.

(*s*) See note (*q*), and cf. note (*g*), *supra*, p. 185.

(*t*) *R.* v. *Woking*, *supra*.

(*u*) *R.* v. *Oxford Canal Co.*, *supra*, 10 B. & C., at p. 176.

expenses of repairing locks should not be deducted in the parish where they are situate, but apportioned according to mileage along the whole line of the canal (*x*); but this decision would probably not be followed at the present day (*y*).

A tenant's share of the net profits must be deducted before the net annual value is arrived at (*z*), as in the case of a railway (*a*). But in the case of a canal, the capital required by a tenant to carry on the undertaking is usually too small to provide a basis for estimating the share of profits he would expect; and this may be calculated at a percentage on gross receipts (*b*).

Rateable value.—The net annual value of the parochial portion of a canal being arrived at by making the deductions above enumerated, in a rural parish the rateable value will be the same (*c*); in an urban parish, a percentage of the net annual value is to be deducted in order to arrive at the rateable value, "any land used "as a canal or towing path for a canal" being among the classes of hereditaments to which such a deduction applies (*d*).

(*x*) *R.* v. *Coventry Canal Co.* (1859), 1 E. & E. 572, where the decision on this point in *R.* v. *G. W. Rail. Co.* (1852), 15 Q. B., at p. 1085, was followed, *vide supra*, p. 185, note (*e*).

(*y*) See *L. & N. W. Rail. Co.* v. *Harborne Overseers* (1870), 34 J. P. 644, *supra*, p. 115, note (*d*).

(*z*) This is the effect of holding in *R.* v. *Oxford Canal Co.* (1825), 4 B. & C. 74; *R.* v. *Bridgewater Trees.* (1829), 9 B. & C. 68; *R.* v. *Tomlinson*, *ibid.*, 163; *R.* v. *Lower Mitton*, *ibid.*, 810, that the rent is something less than the net profits from the tolls; *R.* v. *Woking* (1835), 4 Ad. & E. 40.

(*a*) *Supra*, p. 185.

(*b*) Or at a smaller percentage on net receipts, as was approved in *R.* v. *Woking*, *supra*.

(*c*) Act of 1925, s. 22 (1) (*c*).

(*d*) *Ibid.*; and 2nd Sched. Part I, class 3 (*a*), (*b*); *vide supra*, p. 103. The same description applies for partial exemption from a special rate, s. 3 (2). As to entry in the valuation list, *vide supra*, p. 112, note (*e*).

The net annual value of any indirectly productive works (*e*), such as reservoirs, intakes, etc., will be estimated as in the case of similar portions of a water-works undertaking (*f*); and such parts of these as are "land covered with water" in an urban district will enjoy a similar deduction in arriving at rateable value (*g*).

Harbour and dock undertakings: Gross receipts.—The question which of the dues or rates levied by a port or harbour authority is to be included in gross receipts for purposes of assessment is one of considerable importance. It is a general principle that dues or tolls, the levy of which is not necessarily connected with the occupation of any particular piece of land, are not rateable (*h*). The answer to the above question therefore depends on the dues or rates being earned by the provision of a definite dock or other work, which is in rateable occupation; in other words, only those dues and rates are to be brought into account, the "sole meritorious cause" of which is the benefit afforded by the occupation of land (*i*).

In order to determine this, it is necessary to consider the grant (*k*) or special Act which authorises the

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(*e*) *Vide supra*, p. 177.

(*f*) *Infra*, p. 215.

(*g*) *Infra*, p. 217.

(*h*) These are "tolls in gross": *R.* v. *Nicholson* (1810), 12 East, 330, *supra*, p. 24.

(*i*) *R.* v. *Hull Dock Co.* (1845), 7 Q. B. 2; *R.* v. *Berwick Assessment Committee* (1885), 16 Q. B. D. 493, and the other cases cited in the following notes. As to rateable occupation of hereditaments of this class, *vide supra*, pp. 26, 27.

(*k*) The fact that liability to rating has long been admitted may afford evidence indicating the nature of the original grant, where this cannot be otherwise proved: *Sutton Harbour Co.* v. *Plymouth Guardians* (1890), 55 J. P. 232.

authority to take the dues or rates, as well as the nature of the docks or other works and the conditions of their occupation; the name given to the particular dues or rates may often be misleading. Thus, even "quayage" dues may be "tolls in gross"—and therefore not to be brought into account—if they are paid for landing goods on quays which are not in the occupation of the authority, as well as on those which are so occupied (*l*). Dues leviable in respect of the whole of the vessels which enter a harbour may be brought into account, if the authority owns or occupies the soil of the harbour (*m*); or, where this is not the case, and it happens that no additional dues are paid for the use of a dock, that part of the harbour dues paid by vessels using the dock may be brought in, if it can be established that that part is in fact earned by the occupation of the dock (*n*). The Courts will not readily hold dues expressly authorised to be levied in respect of vessels or goods using a particular dock to be "tolls in gross"—and unless this can be said, they must be brought into account (*o*). Even when dock dues are payable in respect of some vessels which do not actually enter the dock, they may form part of the gross receipts if it is

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(*l*) *Lewis* v. *Swansea Overseers* (1855), 5 E. & B. 508; see also the decision on "coal dues" in *Ipswich Dock Commrs.* v. *St. Peter, Ipswich* (1866), 7 B. & S. 310; and that on "town dues" in *Mersey Docks* v. *Liverpool Overseers* (1873), L. R. 9 Q. B. 84.

(*m*) Like the "anchorage and beaconage" dues in *Durham (Earl)* v. *Bishopwearmouth Overseers* (1859), 2 E. & E. 230.

(*n*) *R.* v. *Hull Dock Co.* (1845), 7 Q. B. 2; it would be difficult at the present day to establish such a proposition in fact; see *Blyth Harbour Commrs.* v. *Tynemouth Union*, [1894] 2 Q. B. 675, pp. 678–9.

(*o*) Like the dues (though called "harbour rates") which were levied for the use of the Town Float in *Swansea Harbour Trees.* v. *Swansea Union* (1905), 1 Konstam, 250; see *R.* v. *Berwick Assessment Committee* (1885), 16 Q. B. D. 493, *infra*.

only the occupation of the dock which enables the authority to levy them (*p*).

With the exceptions indicated above, "harbour "dues" or "port dues" payable in respect of the whole of the vessels or goods entering or leaving the harbour, are not earned by the occupation of any particular work, and cannot be brought into the gross receipts (*q*); the mere fact that the right to collect the dues is given in consideration of the authority's executing certain works is not sufficient to bring them in (*r*). Harbour dues are clearly not earned by the occupation of docks or quays, where the soil of the harbour is not vested in the authority, but separate or additional rates are levied for the specific use of the docks or quays (*s*). And where such dues are payable by all vessels entering a harbour, the fact that some of them pass through a cut (*t*), or use a quay (*u*), in the occupation of the authority does not justify the bringing in of any part of those dues, if it is not the occupation of that cut or that quay which enables them to be levied. Even the occupation by the authority of the piers on either

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(*p*) *Ipswich Dock Commrs.* v. *St. Peter, Ipswich* (1866), 7 B. & S. 310; the facts are practically the converse of those in *R.* v. *Hull Dock Co., supra.*

(*q*) *R.* v. *Bristol Dock Co.* (1841), 1 Q. B. 535; *R.* v. *Hull Dock Co., supra,* and the cases next to be cited.

(*r*) *Faversham Navigation Commrs.* v. *Faversham Union* (1867), 31 J. P. 822; *New Shoreham Harbour Commrs.* v. *Lancing Overseers* (1870), L. R. 5 Q. B. 489.

(*s*) *R.* v. *Berwick Assessment Committee, supra; Swansea Harbour Trees.* v. *Swansea Union* (1907), 1 Konstam, 250.

(*t*) *Faversham Commrs.* v. *Faversham Union, supra;* cf. *Lewis* v. *Swansea Overseers, supra;* and contrast the decision on "dock dues" in the *Ipswich* case, *supra,* note (*p*).

(*u*) *Blyth Harbour Commrs.* v. *Tynemouth Union,* [1894] 2 Q. B. 675; *R.* v. *Hull Dock Co.* (1845), 7 Q. B. 2, *supra,* was there distinguished on the facts (see last note).

side of the harbour entrance is not sufficient to bring into the account the dues and rates levied on goods entering or leaving the harbour, if the authority are not in occupation of the entrance itself (*x*). Dues taken from all vessels passing a lighthouse cannot be brought into the account (*y*).

Railway lines often run upon quays in the occupation of the dock authority; in such a case, only the actual receipts earned by the authority by means of the railway lines can be brought into the account; if they are prevented by statute from earning any such receipts, no estimated sum may be added on that account (*z*). If a railway company is in occupation of the railway lines, a rent paid by it cannot be brought in to the gross receipts of the authority (*a*). On the other hand, if the wharf or quay is in the occupation of the railway or other company, which occupies the lines, the dues paid in respect of the use of the wharf or quay enhance the value of that occupation (*b*), and must therefore be excluded from the gross receipts of the dock or harbour authority.

Warehouses (owned in connection with dock undertakings) being separately rateable (*c*), the gross receipts earned upon them should be left out of account in estimating the net annual value of other portions of

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(*x*) *New Shoreham* case, *supra*.

(*y*) See *Lancaster Port Commrs.* v. *Barrow Overseers*, [1897] 1 Q. B. 166, and the earlier cases there cited; as to rateable occupation, *vide supra*, p. 91.

(*z*) *Sculcoates Union* v. *Hull Dock Co.*, [1895] A. C. 136.

(*a*) *Sutton Harbour Co.* v. *Plymouth Guardians* (1890), 55 J. P. 232; as to occupation, *vide supra*, p. 193.

(*b*) *R.* v. *Dowlais Iron Co.* (1868), 10 B. & S. 208; *R.* v. *Rhymney Rail. Co.* (1869), L. R. 4 Q. B. 276, *supra*, p. 130.

(*c*) *Mersey Docks* v. *Birkenhead Overseers* (1873), L. R. 8 Q. B. 445, *supra*, p. 56.

the undertaking (*d*). Lairages for the reception and slaughter of cattle and sheep may be similarly treated, and it is not improper to fix their net annual value in view of the receipts earned upon them by the authority (*e*).

Attribution of receipts to parishes.—As the estimation of the net annual value of the parochial portion of a dock or harbour undertaking starts with the gross receipts earned upon that portion (*f*), it is necessary in the first instance to ascertain what receipts are due to the works in the parish. This is not always easy, for the parochial boundary may cut across the area of a particular dock or quay, or the vessels may pass from one dock into another, without paying any separate amount of dues, and so on. But to the extent to which it is practicable to ascertain the actual amounts received in respect of the user of the works in the particular parish, this must be done (*g*); it is only in the last resort that receipts which cannot be thus allocated may be distributed in proportion to the acreage of water in each parish (*h*). If the undertaking contains two distinct systems of docks, the

(*d*) *London and India Docks* v. *Poplar Union* (1900), 64 J. P. 820; if such receipts are included, an allowance must be made at a later stage, *infra*, p. 199.

(*e*) *Mersey Docks Board* v. *Birkenhead Assessment Committee*, [1901] A. C. 175. At the present day, it might be said to be improper to arrive at their net annual value in any other way, see *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C. 331, *supra*, p. 174.

(*f*) This is thought to be the more approved practice, although there have been cases where the value has been first estimated as a whole, as in the case of waterworks, see Chap. XI.

(*g*) *Sculcoates Union* v. *Hull Dock Co.*, [1895] A. C. 136; unless indeed traffic has been purposely diverted in the manner spoken of by Lord HERSCHELL, at p. 145.

(*h*) *R.* v. *Hull Dock Co.* (1852), 18 Q. B. 325, read with the case last cited.

receipts of either system must be separately ascertained (*i*); though it may be necessary to have recourse to some such method as last mentioned, in order to apportion the receipts thus ascertained among the parishes into which either system of docks extends.

The inclusion in parishes of foreshores and "accre-"tions" has been considered above (*k*); as the law now stands, there can be few, if any, cases where any part of the works which are the "meritorious cause" of earning the gross receipts is extra-parochial. If there is any doubt to which of the two parishes any such part belongs, and such doubt is not set at rest by the application of s. 27 of the Poor Law Amendment Act, 1868 (*k*), evidence of previous payment of rates is admissible upon the question (*l*), as well as evidence of perambulations.

Harbours and docks: deductions: tenant's share.—Speaking generally, the deductions made from the gross receipts in estimating the net annual value of the parochial portion of a dock undertaking, are of the same nature, and arrived at upon the same principles, as in the case of a railway (*m*); among the working expenses, the directors' fees actually paid may be deducted so far as they are attributable to the carrying on of the business (*n*). There can be no deduction

(*i*) *Mersey Docks* v. *Liverpool Overseers* (1872), L. R. 7 Q. B. 643; here the two systems were on either side of the Mersey; but there may be separate systems of docks at different points on the same bank.

(*k*) *Supra*, p. 59; see *Barwick* v. *S. E. & C. Rail. Co.*, [1921] 1 K. B. 187.

(*l*) *Ipswich Dock Commrs.* v. *St. Peter, Ipswich* (1866), 7 B. & S. 310; *Sutton Harbour* v. *Plymouth Guardians* (1890), 55 J. P. 232.

(*m*) *Vide supra*, pp. 184, 185; certain of the cases were decided in relation to dock undertakings.

(*n*) *R.* v. *Southampton Docks Co.* (1851), 14 Q. B. 587, *supra*, p. 185; but there will be no deduction on this account where the authority is

for the expenses of collecting any dues or rates which are not brought into the gross receipts (*o*). The expense of dredging the channels leading to the docks or works on which the gross receipts are earned is an expense which the tenant (according to the definition of " net " annual value " (*p*)), will have to set aside before arriving at the rent he can afford to pay (*q*) ; and the average expense so incurred must be deducted, whether incurred upon the rateable hereditaments or not (*r*).

If the receipts earned upon any warehouses have been included in the gross receipts, there must be a deduction for their net annual value together with rates and expenses of repair (*s*).

There is no rule of law to prevent the allowance of a tenant's share of profits before arriving at the net annual value, where the undertaking is owned by a statutory body which has to devote its surplus profits to some public purpose like the improvement of the port ; it remains a question of fact whether the tenant would require such remuneration, or could be expected to pay the whole of the net profits as rent (*t*) ; and this

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a statutory body whose members are unpaid ; *R.* v. *Tyne Commrs.* (1862), 6 L. T. 489 (other points decided in the last case are not now regarded as points of law).

(*o*) *Mersey Docks Board* v. *Liverpool Overseers* (1873), L. R. 9 Q. B. 84.

(*p*) *Supra*, p. 154.

(*q*) See *White* v. *South Stoneham Union*, [1915] 1 K. B. 103 ; as there is now no gross value for such hereditaments, the actual decision in that case that expenses incurred outside them were not deductible after arriving at the gross, is now immaterial.

(*r*) As to averaging, see the *Mersey Docks* case, in L. R. 9 Q. B., *supra*.

(*s*) *Vide supra*, p. 196.

(*t*) *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273 ; *supra*, p. 177. While all the Lords concurred in laying down the propositions stated, they were not all agreed that the decision to the contrary in *Mersey Docks Board* v. *Liverpool Overseers* (1873), L. R. 9 Q. B. 84, was wrong in its application to the facts of that particular case.

question must, it should seem, be determined on the same principles as where the undertaking is owned by a company which has power to distribute a dividend (*u*).

Where the tenant is found to require a share of the profit, that share may be calculated at a percentage of gross or net receipts (*x*), or by applying percentages to a tenant's capital (*y*). In the latter case, the value of a tug may be included (*z*); but the tenant's capital will not include hydraulic cranes, and other rateable machinery (*a*).

Rateable value.—Those parts of a dock or harbour undertaking which are "land covered with water" and are situate in a county borough or urban district, receive a reduction of net annual value in arriving at rateable value (*b*); where such parts are situate in a rural parish, there is no such reduction, but they enjoy a partial exemption from special rates (*c*). As to those parts which are not covered with water, the net annual value and the rateable value are the same (*d*).

The expression "land covered with water" includes the water area of the harbour (so far as this is rateable) and of a wet dock (*e*); but does not include a graving

(*u*) Cf. the cases cited with regard to the allowance of a tenant's share in connection with canals, *supra*, p. 192, note (*z*).

(*x*) *Supra*, p. 192.

(*y*) *Supra*, p. 186.

(*z*) *R.* v. *Southampton Dock Co.* (1851), 14 Q. B. 587.

(*a*) *Ibid.*, p. 610; *London and India Docks* v. *Poplar Union* (1900), 64 J. P. 820. As to machinery, see p. 161; and see the observations on this point in connection with railways, *supra*, p. 186-8.

(*b*) S. 22 (1) (*c*), read with 2nd Sched. Part II, class 3; *supra*, p. 103. Such parts must be separately entered in the valuation list, as in the case of railways, *vide supra*, p. 189.

(*c*) S. 3 (2), *vide supra*, p. 104; and see last note.

(*d*) S. 22 (1) (*c*).

(*e*) *Newport Dock Co.* v. *Newport Local Board* (1862), 2 B. & S. 708.

dock, to which water is only admitted occasionally in order to allow vessels to float in or out (*f*); a part of the harbour may be none the less "land covered "with water" though a pontoon floats upon the water (*g*).

Ferries and bridges.—A ferry is not a rateable hereditament; but the landing places used for the purposes of a ferry may be in rateable occupation (*h*). If they are so, it is proper to take a portion of the tolls into account in arriving at their net annual value, because that value is to be taken as enhanced by the fact that the land is available for the purpose of earning the tolls; but it is not right where, for instance, a ferry has two landing-places only, to allocate for this purpose half the tolls to either of the landing-places; to do so would be to overlook the fact that the tolls are in great part earned by the vessels that proceed between the landing-places, and upon land (the bed of a river, etc.) which is not in rateable occupation (*h*). With regard to a toll-bridge (*i*), however, the tolls are paid for passing over the bridge: one part of it is as valuable as another; and the whole of the tolls must be brought into the account; if the bridge stands in two parishes with an equal length of it in each, as in the common case where the parish boundary is the middle line of the river, an equal amount of the tolls is brought into

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(*f*) *Mersey Docks Board* v. *Birkenhead Corporation*, [1916] 1 K. B. 695.

(*g*) See *Smith's Dock Co., Ltd.* v. *Tynemouth Corporation*, [1908] 1 K. B. 948, *supra*, p. 103.

(*h*) *R.* v. *North and South Shields Ferry Co.* (1852), 1 E. & B. 140, *supra*, p. 26.

(*i*) As to the rateable occupation of such a bridge, see *R.* v. *Snowdon* (1833), 4 B. & Ad. 713; *R.* v. *Marquis of Salisbury* (1838), 8 Ad. & E. 716, *supra*, pp. 25, 26.

the account in each parish (*k*). It is immaterial in which parish the tolls are collected (*l*).

A toll-bridge, and the landing-places of a ferry, appear to be "hereditaments valued as part of any "public utility undertaking," and their net annual value should therefore be arrived at in the first instance without any estimation of a gross value (*m*). This should be done upon a basis of the receipts earned, by much the same method as that which is applied to the parochial portion of a canal (*n*). A bridge is not "land "covered with water," neither is a landing-place on the shore; and in these cases the rateable value will be identical with the net annual value; a floating landing-stage used for a ferry may be "land covered with water," and where situate in an urban parish may be entitled to a percentage reduction in arriving at rateable value (*o*).

Markets.—A market building or covered market-place may be, and usually is, in the rateable occupation of the person (or authority) who holds the market and takes the tolls (*p*); so may an enclosed cattle-market (*q*); and even a person who holds a market in a highway may be in rateable occupation of the soil for that

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(*k*) *R.* v. *Barnes* (1830), 1 B. & Ad. 113; *R.* v. *Hammersmith Bridge Co.* (1849), 15 Q. B. 369; no regard is paid to the length of the approach in either parish.

(*l*) *R.* v. *Barnes*, *R.* v. *Marquis of Salisbury*, *supra*.

(*m*) 2nd Sched. Part I, note; s. 22 (1) (*b*), *vide supra*, p. 153

(*n*) *Vide supra*, p. 154.

(*o*) 2nd Sched. Part II; s. 22 (1) (*c*); cf. *Smith's Dock Co., Ltd.* v. *Tynemouth Corporation*, [1908] 1 K. B. 315, 948, *supra*, p. 103.

(*p*) *Roberts* v. *Aylesbury Overseers* (1853), 1 E. & B. 423; *Mayor, etc., of London* v. *St. Sepulchre Overseers* (1871), L. R. 7 Q. B. 333 n.; *Horner* v. *Stepney Assessment Committee* (1908), 2 Konstam, 743.

(*q*) *R.* v. *Casswell* (1872), L. R. 7 Q. B. 328; *Mayor, etc., of London* v. *Greenwich Union* (1883), 48 L. T. 437; *Percy* v. *Ashford Union* (1876), 34 L. T. 579.

purpose (*r*). It makes no difference that this use of the building (*s*) or of the highway (*t*) is intermittent, and occurs only on certain days of the week.

The net annual value of the market is based on receipts from tolls (*u*) ; but it is not all tolls received that may be brought into account. The principle which allows the tolls of a ferry to be treated in part as enhancing the value of the landing-places occupied by the person who receives the tolls has not been applied to markets (*x*). Instead of this, the rule (though it has not always been quite consistently applied) is that only tolls paid for the actual use of a portion of the soil by the person who pays the tolls may be brought into account ; such tolls may be classified under the head of " stallage tolls," though in different places they bear different names. Tolls which must be paid for the bringing of goods (*y*) or of cattle (*z*) into the market (*i.e.* into any and every part) are to be left out of account, because such tolls are not " incident to the " soil " (*a*) and are not payable for the use of any building, or cattle-pen (*b*) ; even those particular sums (being tolls of this kind) which happen to be paid on goods brought into a rateably occupied building are left out of account (*b*).

(*r*) *Williams* v. *Wednesbury Overseers* (1890), Ryde (1886–90), 327.

(*s*) *Roberts* v. *Aylesbury Overseers, supra.*

(*t*) *Williams* v. *Wednesbury Overseers, supra.*

(*u*) But see notes (*p*), (*q*), *infra*, pp. 205, 206.

(*x*) See *R.* v. *North and South Shields Ferry Co.* (1852), 1 E. & B. 140, *supra*, p. 201.

(*y*) *R.* v. *Bell* (1816), 5 M. & S. 221, where the recipient of such tolls only was held not to be rateable ; *Roberts* v. *Aylesbury Overseers, supra ; Mayor, etc., of London* v. *St. Sepulchre, supra.*

(*z*) *R.* v. *Casswell, supra.*

(*a*) *R.* v. *Bell, supra.*

(*b*) *Roberts* v. *Aylesbury, supra ; Horner* v. *Stepney, supra.*

On the other hand, a toll which is paid for the use of a stall (*c*), or for exposing goods for sale on a stall (*d*), or for the use of a particular "pitch," and which would not be payable if a stall or pitch were not used, is brought into the account as a "stallage toll" in rating the holder of the market (*e*); tolls paid for bringing cattle into pens may be tolls of this kind (*f*). The Courts have gone very far in holding tolls to be of the nature of "stallage tolls," which at first sight would seem to be "market tolls" and therefore not rateable. Thus, a payment for placing on the ground of the public market-place a wicker basket (called a ped), the lid of the basket being turned back and propped up to serve as a table was held to be a stallage toll (*g*). Tolls for the standing of carts with goods for sale were held to be properly brought into account (*h*), and tolls payable for exposing goods for sale in a particular portion of the market appropriated to such goods, *e.g.* "the fruit market," the "flower stands" (though not on a particular stall in that portion), were also held to be of the nature of stallage tolls (*i*). These decisions would probably be followed

(*c*) *Williams* v. *Wednesbury Overseers*, *supra*, where the stalls were erected in a highway.

(*d*) *Roberts* v. *Aylesbury Overseers*, *supra*.

(*e*) The person who uses a moveable stall or pitch in a highway and pays the toll is not rateable: *Spear* v. *Bodmin Union* (1880), 49 L. J. M. C. 69; though of course there may be a rateable occupation of permanent shops or stalls in a market building, see *Mayor, etc., of London* v. *St. Sepulchre*, *supra*.

(*f*) *Percy* v. *Ashford Union*, *supra*; in *R.* v. *Casswell*, *supra*, it was not denied that "shed and pen rents" were rightly brought in, though "cattle market tolls" were excluded as above stated.

(*g*) *Mayor, etc., of Great Yarmouth* v. *Groom* (1862), 32 L. J. Ex. 74; this case arose upon a claim for the toll, and not in connection with rates.

(*h*) *R.* v. *Barnard Castle* (1863), 27 J. P. 534.

(*i*) *Duke of Bedford* v. *St. Paul Covent Garden Overseers* (1881), 51 L. J. M. C. 41.

at the present day (*k*) ; though it is difficult to appreciate the difference between a toll paid for bringing goods into the fruit or flower portion of a fruit, flower, and vegetable market—which was in the *Convent Garden* case held to be properly brought into account—and a toll paid for bringing fruit into a market held solely for the sale of fruit, or into a market where fruit, flowers, or vegetables might be sold in all parts of the market,—which would be excluded as the decisions now stand (*l*).

In one case, tolls payable in respect of every head of cattle landed in a market were held to be properly brought into account, without any suggestion that they were payable in respect of the use of a particular pen or of any area smaller than the market itself (*m*). No attempt was made to bring these tolls into the category of " stallage " as distinguished from " market tolls " ; and so long as that distinction is maintained, this decision cannot be followed (*n*). True, it is in harmony with the rule applied to the landing-places of parishes, etc. ; but, as already pointed out, a different rule has been laid down for the valuation of markets (*o*).

A market being a " public utility undertaking," no gross value will be estimated for any part which is valued as such (*p*) ; the net annual value will be esti-

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(*k*) See *Horner* v. *Stepney Assessment Committee, supra.*

(*l*) See *e.g. Mayor, etc., of London* v. *St. Sepulchre, supra.*

(*m*) *Mayor, etc., of London* v. *Greenwich Union* (1883), 48 L. T. 437.

(*n*) It does not appear to have been cited, or approved, in any subsequent case.

(*o*) *Supra*, p. 203.

(*p*) S. 22 (1) (*b*), 2nd Sched. Part I, note. For shops in private occupation a gross value will be estimated in the ordinary way, see Chap. VI.

mated on the basis of those tolls which are brought into account, much in the same way as that of a canal is estimated (*q*) ; the rateable value is the same as the net annual value (*r*).

(*q*) *Supra*, p. 189. There may be cases where the tolls do not afford a sufficient basis of valuation, and where it is necessary to have recourse to a valuation at a percentage on the structural value of the market buildings ; cf. the observations on *Kingston Union* v. *Metropolitan Water Board*, *supra*, p. 174.

(*r*) S. 22 (1) (*c*).

CHAPTER XI

RATEABLE VALUE—*continued*
Water, Gas, Electricity, Tramway, and Similar Undertakings

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Water undertakings.—The net annual value of a water undertaking must be ascertained as a whole on a basis of gross receipts, and afterwards apportioned among the several parishes into which the undertaking extends. The above has now been decided to be a rule of law applicable in every case (*a*), unless it is established " that there are special circumstances in the case " sufficient to make it necessary to . . . resort to some " other principle " (*b*). Such special circumstances would appear to exist in the case of a " company which, " either by reason of its special and peculiar statutory " restrictions or by reason of any other fact, cannot be " regarded in the same light as that of an ordinary " water company." It is a question of law whether such

(*a*) *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C. 331, *supra*, p. 174. Before this decision the choice of methods of valuation was considered to be a question of fact for Quarter Sessions.

(*b*) *Per* Lord CAVE, L.C., [1926] A. C., at p. 345.

" special facts . . . are adequate to entitle a deviation " from a well-recognised rule " (*c*).

One such set of circumstances may perhaps be found where a statutory water authority raises in any year so large a part of its revenue by means of a " deficiency rate "—or other rate levied upon the rate-payers of a local government area generally, and not as a " water rate " payable only by persons who take a supply of water—that the receipts earned by supplying water cannot afford a proper basis of valuation (*d*). But it is clear that the mere fact that the owner-occupier of a water undertaking is a statutory authority, precluded by statute from charging water rates high enough to yield a commercial profit, does not take the valuation of the undertaking out of the ordinary principle (*e*); and does not even do so (but this is perhaps doubtful) in a case where the application of the recognised formula results in a net annual value of *nil* for a part, or the whole, of the undertaking (*f*). If, on the other hand, the rates charged are high enough to yield a profit which would be distributed as a dividend, were the undertaking owned and occupied by a company, the fact that the owner and occupier is a statutory authority which has to devote any ultimate surplus to the improvement of the undertaking, or other public purposes, does not prevent the application of the profits basis (*g*).

(*c*) *Per* Lord BUCKMASTER, at p. 352.

(*d*) Such a case is suggested by Lord BLANESBURGH, [1926] A. C., at p. 354, see under " Gross Receipts," *infra*, p. 211.

(*e*) The decision in *Worcester Corporation* v. *Droitwich Assessment Committee* (1876), 2 Ex. D. 49, *infra*, p. 209, was approved by the H. L. in the case last cited; see *per* Lord CAVE, L.C., [1926] A. C., at pp. 343, 344.

(*f*) See the observations of Lord CAVE, L.C., at p. 343, on *Peterborough Corporation* v. *Stamford Union* (1883), 31 W. R. 949; 12 Q. B. D. 1.

(*g*) *Mayor, etc., of Liverpool* v. *Wavertree Overseers* (1875), 2 Ex. D.

Gross receipts : compulsory rates.—Subject to the question considered below as to compulsory rates, the gross receipts to be brought into account in the valuation of a water undertaking on the profits basis are the charges actually received for the supply of water, usually known as water rates or water rents. If these charges have been kept low by a local authority in performance of its statutory duties, in order that the fullest use may be made of the water for purposes of public health, no addition may be made to bring the charges up to a commercial scale (*h*).

It is not clear to what extent (if any) receipts from local rates which are levied compulsorily, whether the payer takes a supply of water or not, and the proceeds of which are devoted to the support of the water undertaking, should affect the valuation. In the *Dewsbury* case (*i*), the actual amount of such a rate, levied to make up so much of the expenses of maintaining the undertaking as the payments received, for a supply of water were insufficient to discharge, was held to be rightly brought into account ; in that case the payments for water supplied were enough (after current expenditure had been defrayed) to pay a large part, but not the whole, of the interest on the capital borrowed for the construction of the works. But in the most recent of the cases bearing on this point (*k*), it was held to be wrong to bring in to

55 n. ; *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273, *supra*, p. 177, applied by the H. L. in the *Kingston* case, see [1926] A. C., pp. 343, 348.

(*h*) *Worcester Corporation* v. *Droitwich Assessment Committee* (1876), 2 Ex. D. 49, see note (*e*), *supra*, p. 208 ; see also the view of WIGHTMAN and CROMPTON, JJ., in *R.* v. *Longwood* (1852), 21 L. J. M. C. 215.

(*i*) *Dewsbury and Heckmondwike Waterworks Board* v. *Penistone Union* (1885), 16 Q. B. D. 585 ; (1886), 17 Q. B. D. 384.

(*k*) *Metropolitan Water Board* v. *St. Marylebone Assessment Committee*, [1923] 1 K. B. 86.

the account of gross receipts, the proceeds of precepts levied by the Metropolitan Water Board on local authorities to meet a deficiency in the water fund—and satisfied by those authorities in their turn by the levy of compulsory rates on all ratepayers whether they took a supply of water or not; these precepts were of the same nature as the rate levied in the *Dewsbury* case, and here again, the payments for water were sufficient (after defraying the current expenditure) to meet a substantial part, but by no means the whole, of the debt charges. It was conceded in the judgments that if the hypothetical tenant derived a real advantage from possessing the power to levy a deficiency rate or precept, the net annual value might be somewhat enhanced for that reason; but it was held that in the *St. Marylebone* case, that advantage enured not to the Metropolitan Water Board considered as the hypothetical tenant, but to that Board considered as the hypothetical landlord, whose duty was to meet the interest and repayments of principal on the cost of construction or acquisition of the works. This decision was distinguished from the decision on the point in the *Dewsbury* case on the ground (*inter alia*) that in that case, the amount of the compulsory rate in the particular year was "on the facts—held to be the proper value "of the advantage" enjoyed by the tenant as above described (*l*). But this statement involves the position that in another year the yield of a rate levied under the same statutory provisions might not be the proper

(*l*) This is the inference drawn by SANKEY, J., [1923] 1 K. B., at p. 103, from the judgment of Lord ESHER, M.R., in the *Dewsbury* case in C. A., 17 Q. B. D., at p. 386, with which the other L.JJ. concurred; there is no direct statement to this effect in that judgment, or in that of the K. B. D.

value of that advantage ; and clearly it is not the fact that the compulsory rate is needed to meet current expenditure which decides whether the proceeds of that rate represent that value, for neither in the *Dewsbury* nor in the *St. Marylebone* case was the rate needed for that purpose.

In view of the opinion of Lord BLANESBURGH in the *Kingston* case (*m*), the correctness of the decision of the Divisional Court in the *St. Marylebone* case (*n*) cannot be regarded as established beyond doubt ; and it is submitted that the decision in the *Dewsbury* case (*o*), which, though earlier, is a decision of the Court of Appeal, still governs the matter.

In an intermediate decision (*p*), where a local sanitary authority, who were also the owners of a water undertaking, were empowered by a local Act to use for the purposes of that undertaking money raised by them as sanitary authority out of a general district rate (which was of course a compulsory rate levied on all ratepayers, whether consumers of water or not), but were only empowered to do so upon the condition that that money should be repaid to the district rate account out of any balance from time to time standing to the credit of the waterworks account, it was held that the money was (by virtue of that condition) received on " terms " which prevented it from being an item of gross profit," and could therefore not be brought into the account. This decision has not been questioned (*q*).

(*m*) [1926] A. C., pp. 353–4.

(*n*) [1923] 1 K. B. 86, *supra.*

(*o*) (1886), 17 Q. B. D. 384.

(*p*) *Merthyr Tydfil L. B.* v. *Merthyr Tydfil Assessment Committee*, [1891] 1 Q. B. 186 (Q. B. D.).

(*q*) See the observations on this case of Lord HEWART, C.J., in the *St. Marylebone* case, [1923] 1 K. B., p. 98.

The gross receipts—and the items of deduction collected from the accounts—are taken from the accounts of the last year preceding the time at which the valuation is being framed or adjudicated upon, or more often from an average of the accounts of the three, or even the five, preceding years. In any case the latest available information should be used (*r*).

Net annual value of water undertaking: apportionment.—Starting upon a basis of gross receipts, the net annual value of a water undertaking has to be ascertained as a whole, regardless of the number of parishes into which it extends, or of the various parts of which it consists; apportionment between those parishes and those parts is effected at a later stage (*s*). The estimation of the net annual value of the whole proceeds on the same principles as are applicable in estimating the net annual value of running lines of railways and of canals (*t*); that is, by the deduction of working expenses, an allowance for tenant's profit, and the cost of repairs, insurance and maintenance, the balance remaining being treated as the net annual value of the entire concern (*u*). The capital actually required by a tenant for carrying on a water undertaking is,

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(*r*) Cf. *R.* v. *L. B. & S. C. Rail. Co.* (1851), 15 Q. B. 313, at p. 367, *supra*, p. 183: thus in *Metropolitan Electric Supply Co., Ltd.* v. *Paddington Union* (1907), 2 Konstam, 678, it was held that the approaching division of the company's undertaking into two parts, one of which was to be transferred to a local authority, must affect the mind of an intending tenant under the company, though the division had not yet taken place.

(*s*) *R.* v. *Mile End Old Town* (1847), 10 Q. B. 208; *R.* v. *West Middlesex Co.* (1859), 1 E. & E. 716; see also *R.* v. *Sheffield United Gas Light Co.* (1863), 32 L. J. M. C. 169, *infra*, p. 218. All these decisions were approved by the H. L. in *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C. 331, *supra*, p. 206.

(*t*) *Vide supra*, pp. 180–193.

(*u*) See *per* Lord CAVE, L.C., [1926] A. C., at p. 339.

however, comparatively small, and does not therefore, as a rule, afford much guidance in estimating the profit that a tenant would expect ; consequently, the " tenant's " share " is often estimated at a percentage of the gross receipts, with an addition sometimes of interest on such amount of capital as a tenant would be obliged to keep in hand.

As in the case of other hereditaments (*x*), the deduction from gross receipts for the tenant's rates must be calculated (whether the deduction is made before arriving at the net annual value of the whole, or after apportionment to each parish) according to the rateable value arrived at as the result of the calculation for the whole concern, or for the parochial portion, as the case may be ; it is not correct to base the amount of rates deducted on the figures appearing in the valuation lists already in force (*y*).

For purposes of apportionment, a division is made between those works which are directly and those which are indirectly productive of profit ; the service pipes which actually carry the water to the consumers (sometimes called " live " mains) being considered as directly productive, while intakes, filter beds, reservoirs, pumping stations and carrying or pumping mains (sometimes called " dead " mains) are considered as being only indirectly productive (*z*). The valuation of the indirectly productive works is considered below (*a*) ; it

(*x*) *Supra*, pp. 135, 185.

(*y*) *R.* v. *South Staffordshire Waterworks Co.* (1885), 16 Q. B. D. 359.

(*z*) *R.* v. *Mile End Old Town ; R.* v. *West Middlesex Water Works Co., supra ;* and see *per* Lord CAVE, L.C., [1926] A. C., p. 339, *supra*, p. 178.

(*a*) *Vide p.* 215. Gathering grounds forming part of the undertaking are in the same category, see *Liverpool Corporation* v. *Chorley Union*, [1913] A. C. 197, *supra*, p. 53.

must here be observed that their net annual value is limited by the net annual value of the undertaking as a whole (*b*), and that if the value of the whole concern is *nil*, the indirectly productive portion in any particular parish also has no value (*c*).

When the net annual values of the indirectly productive portions in the various parishes have been subtracted from the net annual value of the whole concern, there remains a sum which represents the net annual value of the whole of the "live" mains. This has to be apportioned among the various parishes into which the live mains extend, in proportion to the profits earned in each parish (*d*), and not in proportion to the lengths of the mains (*e*). In principle, the right method of apportionment is according to net profits, and gross profits should only be taken as the standard, where the expenses are uniform throughout the parishes (*f*). But this principle cannot always be applied; and the apportionment may be made according to gross receipts, if the expenses in each parish cannot be accurately ascertained (*g*).

(*b*) *R.* v. *West Middlesex Waterworks Co., supra;* in that case the valuation of indirectly productive works only was in question.

(*c*) See *Mayor, etc., of Peterborough* v. *Stamford Union* (1883), 31 W. R. 949, *supra*, p. 208, note (*f*). For the reason stated, in *Kingston Union* v. *Metropolitan Water Board* the Board (whose contentions of law were successful in reducing the gross value of the whole concern) put the value of indirectly productive works at 2½ per cent. on structural value, instead of the usual 4 and 5 per cent., see [1926] A. C., p. 345; *vide infra*, p. 217.

(*d*) *R.* v. *Mile End Old Town, supra.*

(*e*) *R.* v. *Sheffield United Gas Light Co., supra*, applying the principles laid down in *R.* v. *West Middlesex Waterworks Co., supra.*

(*f*) *R.* v. *Mile End Old Town, supra.*

(*g*) *Metropolitan Board* v. *City of London Union* (1909), Konstam and Ward, 135; cf. *London United Tramways, Ltd.* v. *Brentford Union*, *infra*, p. 221.

Net annual value of indirectly productive works.—The net annual value of the indirectly productive property of a water undertaking contained in a parish is fixed (subject to conformity with the net annual value of the concern as a whole (*h*)) at "a per-centage on the structural (or contractor's) value of" that property (*i*). This method of valuation is called "the contractor's test," because it applies, to the expenditure which a contractor would incur if called upon to erect the works required by the owners of the undertaking, the interest which he would expect to receive from them as his remuneration for so doing (*k*).

Subject to the works not being in excess of existing requirements (*l*), the price actually paid for the land upon which the works are situate will usually represent what Lord CAVE calls "the contractor's value" of the land. A spring (or an intake from a river) for taking water which is distributed elsewhere, derives a substantial part of its value from its fitness for that use (*m*). But the price paid for the land *primâ facie* includes all elements of value arising from special fitness or adaptability for the purpose for which the land is used, including its fitness for use as a spring or intake; the fact that the water company or authority exercise at a particular spot their right of taking water from a river for distribution elsewhere, does not

(*h*) See note (*c*), *supra*; note (*s*), *infra*, p. 217.

(*i*) The words quoted are taken from the speech of Lord CAVE, L.C., in *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C., at p. 339. The observations of Lord PARKER in *Metropolitan Water Board* v. *Chertsey Union*, [1916] 1 A. C. 337, at pp. 360–362 as to "cost" and "value" must be read in connection with the facts and the question of law with which his Lordship was there dealing, *vide infra*.

(*k*) See the two speeches cited in the preceding note.

(*l*) See below.

(*m*) *R.* v. *New River Co.* (1813), 1 M. & S. 503.

therefore justify an addition to the price paid for the site of the intake works (*n*), unless indeed it can be shown that the special fitness of the land for that purpose was not in fact an element in fixing the price paid (*o*). Similar observations apply to a gathering ground (*p*).

The cost of the land may include, as well as an actual money payment for land taken, the cost to the undertaker of reinstating persons displaced by the taking of the land, and of constructing accommodation works, such as roads and bridges; in such a case, it is legitimate to take the whole of that expenditure as the price of the land (*q*). The actual expenditure incurred on buildings and other structures is not an infallible guide to their "structural (or contractor's) "value," if a part of it has been incurred in meeting difficulties not foreseen when the work of construction was commenced; the amount expended may require some adjustment for this purpose (*r*).

Again, the works may actually be larger than is required for the purpose of supplying the quantity of water that is supplied at the time of valuation; they may have been constructed on a scale which is adapted to meet future requirements. Where this is the case, their net annual value should be estimated as if they

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(*n*) *Metropolitan Water Board* v. *Chertsey Union*, [1916] 1 A. C. 337, *supra*.

(*o*) *New River Co.* v. *Hertford Union*, [1902] 2 K. B. 597, as limited by Lord SHAW in the *Chertsey* case, [1916] 1 A. C., at p. 358.

(*p*) In *Liverpool Corporation* v. *Chorley Union*, [1912] 1 K. B. 270, evidence of the price paid for a gathering ground was held to be admissible; but the questions subsequently debated in the *Chertsey* case were not raised.

(*q*) *Liverpool Corporation* v. *Llanfylin Union*, [1899] 2 Q. B. 14.

(*r*) *Mayor, etc., of Bradford* v. *Keighley Union* (1906), 2 Konstam, 517.

were large enough only to meet the requirements existing at the time of valuation ; the necessary adjustment may be effected by applying reduced percentages to the capital value (whether of land or of buildings) (*s*) or by making a deduction from the total capital value so as to reduce it to the " effective capital value " (*t*).

The percentages applied in a normal case to the capital values adopted are 4 per cent. for land and 5 per cent. for buildings ; these are not to be reduced because the particular authority that owns the undertaking is able to borrow money at lower rates (*u*). The burden of showing that for any other reason they should be reduced, appears to lie upon the party desiring the reduction (*x*).

The provisions as to the rating or omission from rating of machinery and plant, contained in the Rating and Valuation Act, 1925, do not apply to these works ; and these must be treated according to the same principles as the machinery and plant in gas-works (*y*).

Water undertakings : rateable value.—Those parts of water undertakings which are " land covered " with water " and are situate in a county borough or urban district, are entitled to a percentage reduction from their net annual value before arriving at rateable value (*z*). In rural parishes such parts also enjoy a

(*s*) *R.* v. *South Staffordshire Waterworks Co.* (1885), 16 Q. B. D. 359.

(*t*) *Liverpool Corporation* v. *Llanfyllin Union* (1899), 80 L. T. 667 ; this point is not included in the report in [1899] 2 Q. B. 14 ; *Mayor, etc., of Bradford* v. *Keighley Union, supra.*

(*u*) *Metropolitan Water Board* v. *Chertsey Union*, [1916] 1 A. C. 337.

(*x*) *Ibid., per* Lord PARKER, at p. 361 ; that party may be the water authority, as in the *Kingston* case, note (*c*), *supra*, p. 214.

(*y*) See s. 24 (10); and *R.* v. *Lee* (1866), L. R. 1 Q. B. 241, *infra*, p. 219, note (*m*).

(*z*) S. 22 (1) (*c*) read with 2nd Sched. Part II, class 3.

partial exemption from special rates (*a*). As regards those parts which are not "land covered with water," the net annual and rateable values are the same (*b*). The various parts according to this classification must be therefore entered separately in the valuation list (*c*).

"Land covered with water" includes the reservoirs (*d*), the filter beds and the feeding canals (*e*) of the undertaking; but not the mains or service pipes (*f*).

Gas undertakings.—The net annual values for those hereditaments valued as parts of any gas undertaking are arrived at upon the same lines as for the parts of a water undertaking (*g*); but here the rateable value of any part is the same as the net annual value (*h*).

If the tenant's share of the profits is calculated (as is usually the case in the valuation of a gas undertaking) by putting a percentage upon the capital which he would require to carry it on (*i*), the tenant's capital may include the value of the meters, whether ordinary or prepayment meters, as well as the stoves, burners and other fittings, which are the property of the undertaking, although they are fixed on the consumers' premises (*k*);

(*a*) *Supra*, p. 103. (*b*) S. 22 (i) (*c*).

(*c*) *Supra*, p. 113, note (*i*).

(*d*) *Southwark and Vauxhall Water Co.* v. *Hampton U. D. C.*, [1899] 1 Q. B. 273; [1900] A. C. 3, *supra*, p. 103.

(*e*) *East London Waterworks Co.* v. *Leyton Sewer Authority* (1871), L. R. 6 Q. B. 669.

(*f*) *R.* v. *Birmingham Waterworks Co.* (1861), 1 B. & S. 84.

(*g*) *R.* v. *Sheffield United Gas Light Co.* (1863), 32 L. J. M. C. 169, expressly follows the earlier water cases, and was approved with them in *Kingston Union* v. *Metropolitan Water Board*, [1926] A. C. 331, *vide supra*, p. 212, note (*s*).

(*h*) S. 22 (1) (*c*); unless indeed a canal, or land covered with water, happens to be included in the undertaking, *vide supra*, p. 103.

(*i*) *Vide supra*, p. 186.

(*k*) *R.* v. *Lee Inhabitants* (1866), L. R. 1 Q. B. 241; *Ipswich Gas Light Co.* v. *Ipswich Union* (1907), 2 Konstam, 699.

the receipts from the hire of such chattels will be included in the gross receipts of the undertaking. There seems no reason why the value of such a stock of these articles as it is necessary for the tenant to have in hand for the purpose of hiring out to consumers when required, should not also be included. The value of all the chattels included must be their value for use at the date of the valuation, which is not necessarily the same as their cost price (*l*).

On the other hand, the value of retorts, purifiers. steam-engines, boilers, gas-holders, pumps, and exhausters which are by one means or another fixed to the soil of the gas-works, must not be included in the tenant's capital (*m*). Account must be taken of these in fixing the net annual value of the gas-works (as indirectly productive portions of the undertaking) for allocation to the particular parish in which the works stand ; for the gas-works are " hereditaments, the value " of which is ascertained by reference to the accounts, " receipts or profits of the undertaking," and therefore the provisions as to the rating or omission from rating of machinery and plant in the Rating and Valuation Act, 1925, do not apply (*n*). A proper percentage must be put on the value of the machinery and plant thus brought into account (*o*).

Electricity and hydraulic undertakings.—The net annual value of undertakings for the supply of electric light or power, or for the supply of hydraulic

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(*l*) *Vide supra*, p. 186, note (*l*).

(*m*) *R.* v. *Lee* (1866), L. R. 1 Q. B. 241, *supra*.

(*n*) See s. 24 (10).

(*o*) *Smith* v. *Willesden Union* (1919), 89 L. J. K. B. 137, *supra*, p. 160 ; there is no fixed percentage, *Metropolitan Water Board* v. *Chertsey Union*, [1916] 1 A. C., *per* Lord PARKER, at p. 360.

power, and of the parochial portions of those undertakings (*p*) where they extend into several parishes, is arrived at on the same principles as that of gas undertakings and of their parochial portions.

In particular, it may be noted that the value of such a stock of meters, or electric fittings, or stoves as it is necessary for a tenant of an electric undertaking to have in hand in order to attract and equip consumers may be included in the tenant's capital (*q*); while the value of such machinery or plant as turbo-generators, or hydraulic mains cannot be so included (*r*). The net annual value due to the presence of machinery or plant of the latter class must be added in estimating the net annual value of generating stations or other indirectly productive works (*s*).

The rateable value will be the same as the net annual value (*t*).

Tramway undertakings.—Tramway undertakings in most cases extend into more than one parish (*u*); if in any case the earnings in a particular parish are ascertainable, it is lawful—and perhaps obligatory—to arrive at the net annual value of each parochial portion of the tramway lines separately, without any previous valuation of the undertaking as a whole, in

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(*p*) Apart from the case of *Metropolitan Electric Supply Co., Ltd.* v. *Paddington Union*, cited *supra*, p. 212, the decisions of the superior courts applicable to the valuation of these undertakings, are laid down in the water and gas cases cited *supra*, pp. 212, 218.

(*q*) Cf. *R.* v. *Lee*; *Ipswich Gas Co.* v. *Ipswich Union*, cited *supra*, p. 218, note (*k*).

(*r*) *R.* v. *Lee*, *supra*.

(*s*) Act of 1925, s. 24 (10); see note (*o*), p. 219.

(*t*) S. 22 (1) (*c*).

(*u*) As to the rateable occupation of tramways, see *Pimlico Tramway Co.* v. *Greenwich*; *New St. Helens Corporation* v. *Prescot Union*, *supra*, pp. 23, 43.

the same way as the net annual value of the running lines of a railway in a parish is arrived at (*x*). But in most cases there is a great difficulty, due to the nature of tramway traffic, in ascertaining the earnings in a particular parish; passengers enter and leave the trams at numerous points, the fares cover overlapping journeys, and no record is kept from which it can be gathered how many passengers have entered or alighted in a particular parish. In such circumstances it is permissible to make a valuation of the whole undertaking in the first instance, as in the case of a water or gas undertaking (*y*) and afterwards to allocate the net annual value of the whole to the indirectly productive works (such as car-depots) and to the tramway lines in each parish (*z*). The net annual value of the indirectly productive works in a parish will be arrived at in the same way as in the case of a water or gas undertaking (*a*); but in the absence of evidence of gross or net receipts earned in the parish, there may be no better basis available for apportioning among the parishes the net annual value of the tramway lines as a whole, than the record of the number of miles run by the cars in each parish; in such a case, it is permissible to allocate this value according to the numbers of car-miles run (*b*).

A tramway undertaking has a large tenant's capital consisting of tramcars, tower-waggons, tools, etc.; and it is usual to arrive at the "tenant's share" by valuing

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(*x*) Cf. *Melbourne Tramway, etc., Co.* v. *Mayor, etc., of Fitzroy*, [1901] A. C. 153, and as to railway valuations, see Chap. X.

(*y*) *Vide supra*, pp. 206, 218.

(*z*) *London United Tramways* (1901), *Ltd.* v. *Brentford Union* (1906), 2 Konstam, 410.

(*a*) *Supra*, pp. 215, 219.

(*b*) *London United Tramways* v. *Brentford, supra.*

this capital, and applying a percentage or percentages to it, as in the case of a railway (*c*).

Certain portions of what is called a tramway undertaking may be in law "land used as a railway constructed "under the powers of any Act for public conveyance;" this depends on the provisions of the Act under which such portions have been constructed (*d*). Any such portions in urban parishes receive a reduction of net annual value in order to arrive at rateable value (*e*); in rural parishes they enjoy a partial exemption from special rates (*f*). Such portions must be separately entered in the valuation list (*g*).

For the remaining portions of a tramway undertaking (other than any portion which is "land used "only as a railway . . ."), the rateable value is the same as the net annual value (*h*).

(*c*) *Vide supra*, p. 186.

(*d*) The question is considered, *supra*, pp. 102, 103; see the cases cited in notes (*l*), (*m*), (*n*), on p. 102.

(*e*) S. 22 (i) (*c*); 2nd Sched. Part II, class 3 (*a*), (*b*).

(*f*) S. 3 (2), *supra*, p. 103.

(*g*) *Vide supra*, p. 113.

(*h*) S. 22 (i) (*c*).

CHAPTER XII

RATEABLE VALUE—*continued*
Tithe Rent-charge, etc.

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Net annual value of tithe rentcharge, etc.—Although tithe rent-charge, and other annual payments of a similar nature substituted for tithes, are rateable hereditaments (*a*), they are not hereditaments of any of the kinds described in Part I of the Second Schedule to the Act of 1925, and therefore their net annual value is to be estimated directly (*b*), and there will be no entry of a " gross value " in the valuation list (*c*). The provisions for the vesting in Queen Anne's Bounty of tithe rentcharge attached to a benefice, and for payment of rates in respect thereof (*d*), do not affect the estimation of net annual value.

In order to arrive at the net annual value of a tithe rentcharge (*e*), there must therefore be estimated the

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(*a*) *Vide supra*, p. 60.

(*b*) S. 22 (1) (*b*); the definition of " net annual value " is set out, *supra*, p. 154.

(*c*) Form of Valuation List Rules, 1926, rule 5, *column* 7, *supra*, p. 118.

(*d*) 15 & 16 Geo. 5, c. 87, ss. 3, 7, *supra*, p. 60.

(*e*) In the following observations the expression " tithe rentcharge " is used to include tithe and any other annual payments of similar kinds which are rateable, *vide supra*, p. 61.

rent at which it might reasonably be expected to let from year to year, if the tenant indertook to pay all usual tenant's rates and taxes. That rent is estimated upon a basis of gross receipts, according to principles very similar to those which are applicable in the case of public utility undertakings carried on for profit (*f*); and when the difference between receipts and expenditure has been ascertained, it has to be considered "what a tenant would probably in the circumstances "give; or, if you so like to put it, what margin would he "allow himself for contingencies" (*g*). It is permissible therefore, after all other deductions from the gross receipts have been made, to make a further deduction for tenant's share or for "contingencies," if in fact it is considered that a possible tenant would make such a deduction (over and above the deductions next indicated) before deciding what rent he could afford to give for the tithe rentcharge (*h*).

Before the above question arises, deduction must first be made for ecclesiastical dues, such as tenths, first-fruits, synodals (*i*). Secondly, the probable cost of collection must be deducted, including the remuneration of the collector as well as reasonable allowances for legal costs and out-of-pocket expenses, and for

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(*f*) See the preceding Chapters, IX–XI.

(*g*) In *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273, Lord DUNEDIN, at pp. 297–8, deals with the valuation of tithe rentcharge; the words cited in the text will be found on p. 298. See also, p. 186, *supra*, note (*k*).

(*h*) The judgment on this point in *Hackney, etc., Tithe Rentcharges* (1858), E. B. & E. 1, pp. 60–62, and that in the *St. Asaph* case, *infra*, must be read with the opinion cited in the preceding note.

(*i*) *R.* v. *Joddrell* (1830), 1 B. & Ad. 403, 409; *R.* v. *Capel* (1840), 12 Ad. & E. 382; *Hackney, etc., Tithe Rentcharges* (1858), E. B. & E. 1.

possible bad debts and irregularities in payment (*k*). Again, there must be a deduction for tenant's rates and taxes (*l*). This allowance must be made for general and special rates payable (*m*), calculated on the ultimate rateable value of the tithe rentcharge in the case of the general rate (*n*), and on one-fourth of that rateable value in the case of a special rate (*o*). On the other hand, the relief given by the Tithe Rentcharge Rates Act, 1899, in regard to tithe rentcharge attached to a benefice is to be disregarded, and the whole amount of the rates leviable is to be deducted (*p*). Unless there is some special provision in a local Act under which it is levied, a sewers rate or drainage rate is not leviable in respect of a tithe rentcharge, and is therefore not deductible in estimating its net annual value (*q*). No deduction is admissible for land tax (*r*), or for income tax under Schedule A (*s*). If, however, any income

(*k*) *Hackney Tithe Rentcharges*, E. B. & E., at p. 62; *Dean and Chapter of St. Asaph* v. *Llanrhaiadr Overseers*, [1897] 1 Q. B. 511, pp. 514, 515.

(*l*) See the cases above cited, and the definition of net annual value in s. 22 (1) (*b*).

(*m*) The decision in the *Hackney* case, E. B. & E. 1, 42 *sqq.*, as to the poor, general and lighting rates then leviable, applies to these rates, by virtue of ss. 2 (3), 3 (2), *vide supra*, pp. 4, 17.

(*n*) See pp. 135, 185, *supra*.

(*o*) See s. 3 (2), *supra*, p. 104; the judgment of the majority in *Piggott* v. *Cuckfield Union*, *infra*, does not appear to apply to this point.

(*p*) *Piggott* v. *Cuckfield Union*, [1921] 2 K. B. 647; this decision is not overruled, though doubt is thrown on its correctness, by that of the C. A. in *Slaytor* v. *Newcastle Assessment Committee*, [1926] 1 K. B. 172, *supra*, p. 135; see *per* BANKES, L.J., at pp. 180, 181. As to the Act of 1899 (62 & 63 Vict. c. 17), and its present effect, *vide supra*, p. 61.

(*q*) The *Hackney* case, E. B. & E. 1, 45, 46; as to such rates, *vide supra*, p. 135.

(*r*) *Ibid.*, pp. 46, 47.

(*s*) The reasons given in the *Hackney* case, *loc. cit.*, against deducting the land tax apply even more strongly against deducting the Sched. A tax; for no agreement can deprive the tenant of the right to recoup the

tax under Schedule B is in fact charged, it would seem that a deduction is admissible on that account (*t*).

Payments which cannot be deducted.—Apart from the ecclesiastical dues above referred to, payments for church purposes made out of the receipts from a tithe rentcharge cannot be deducted in estimating its net annual value. There is no allowance for the personal services of the recipient as rector or vicar of the parish (*u*). Nor is there any deduction in respect of an amount paid for the services of a curate, whether the recipient of the tithe rentcharge who makes the payment is the incumbent of the benefice (*x*), or of two benefices for one of which he has to provide a curate (*y*), or whether he is a lessee of the tithe rentcharge and is bound as such to make a payment to the curate of another parish (*z*), or is a lay impropriator (*a*).

That part of the definition of net annual value (*b*) which supposes an undertaking by the tenant to bear the cost of repairs, etc., has no application to a tithe rentcharge; and the cost of repairing the chancel of the parish church cannot be deducted, though the owner of the tithe rentcharge may be under an obligation to meet that expense (*c*).

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tax paid against his landlord; and cf. *R.* v. *Southampton Docks Co.* (1851), 14 Q. B. 587, *supra*, p. 185.

(*t*) The *Hackney* case, E. B. & E. 1, 48; *Williams* v. *Llangeinwen Overseers* (1861), 1 B. & S. 699, 708; but see the case last cited.

(*u*) *R.* v. *Joddrell* (1830), 1 B. & Ad. 403, 409; the *Hackney* case (1858), E. B. & E. 1, 49–52.

(*x*) *R.* v. *Sherford* (*Inhabitants*) (1867), L. R. 2 Q. B. 503, where earlier decisions to the contrary were held to be overruled.

(*y*) *Wheeler* v. *Burmington Overseers* (1861), 1 B. & S. 709.

(*z*) *R.* v. *Groves* (1860), 2 E. & E. 793; *Wheeler* v. *Burmington*, *supra*.

(*a*) See *per* COCKBURN, C.J., 1 B. & S., at p. 725.

(*b*) *Supra*, p. 154.

(*c*) *Dean, etc., of St. Asaph* v. *Llanrhaiadr Overseers*, [1897] 1 Q. B. 511, *supra*, p. 225.

Annual payments of interest or repayments of principal in respect of sums borrowed on the security of the tithe rentcharge for rebuilding the parsonage-house are not deductible (*d*).

Rateable value.—In a rural parish, the rateable value of tithes, tithe rentcharge and other payments in lieu of tithe is the same as their net annual value (*e*). In an urban parish, the net annual value is to be reduced by the appropriate percentage in order to arrive at the rateable value (*f*).

(*d*) The *Hackney* case, E. B. & E. 1, 55–56.

(*e*) S. 22 (1) (*c*); as to the three-fourths exemption for tithe and tithe rentcharge from special rates, see s. 3 (2), *supra*, p. 104.

(*f*) S. 22 (1) (*c*), read with 2nd Sched. Part II, class 3 (*a*), (*b*); the percentage applicable depends on the Ascertainment of Rateable Values Orders, 1926 and 1927, or on the terms of the local Act consolidating the rates, as the case may be; cf. p. 102, *supra*.

CHAPTER XIII

THE VALUATION LIST: PREPARATION AND REVISION: OBJECTIONS

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Returns.—The first duty of a rating authority, when a new valuation list (including the first list made under the Act of 1925) is to be made for any rating area, or part of a rating area (*a*), is to send out notices requiring returns, to the occupier, owner, or lessee of every hereditament situate in the area or part, which is rateable, or may become rateable (*b*). Occupiers may be served with such notices as well as owners and lessees (*c*). A single notice may be served in respect of two or more hereditaments of which the same person is owner or lessee, a schedule being attached for this purpose (*d*).

(*a*) See note (*k*), *supra*, p. 106.

(*b*) S. 40 (1), read with definition of "hereditament" in s. 68; rateability is considered in Chaps. II, IV. "Owner" is also defined in s. 68, and does not include a lessor who receives a rent that is less than a rack-rent.

(*c*) The notice is to be in the form (or in one substantially to the like effect) prescribed by the Returns Rules, 1926, St. R. & O. 1926, No. 795, rule 2.

(*d*) Rule 4.

The particulars demanded in the return are to be such as may be reasonably required (*e*) for the purpose of carrying out the Act, and are to include questions as to matters mentioned in the prescribed form of return; but questions as to matters inappropriate to the particular class of hereditament concerned may be omitted (*f*); other questions may be added, those which appear on the prescribed form being sufficient only as regards ordinary hereditaments, such as dwelling-houses, shops, offices, agricultural land, etc. Further particulars may not unreasonably be required, for instance, in regard to hereditaments equipped with machinery and plant, cinemas, race-courses and other special kinds of property (*g*). The question, however, is as yet unsettled whether, and to what extent, a rating authority may reasonably require particulars of the trade done, when calling for returns in respect of hereditaments which it is proposed to assess by an estimate based on the receipts earned, as in the case of licensed property (*h*) and of some of the other classes of property last mentioned.

The return has to be delivered to the rating authority by the person on whom a notice is served, within twenty-one days after the date of service (*i*); if he fails to do so, a fine up to £20 and a further daily penalty up to 40*s*. may be inflicted on summary conviction (*k*). Upon any summons under this section, it will be for the justices to decide (if this is denied) whether the

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(*e*) S. 40 (1).

(*f*) Rules 2, 3.

(*g*) For the principles of valuation applicable, see Chaps. VI–XII.

(*h*) See the observations made in that connection, *supra*, p. 143.

(*i*) S. 40 (3).

(*k*) S. 42 (1); a return false in any material particular entails a possible penalty of £50, sub-s. (2).

particulars required by the notice are such as may be reasonably required (*l*).

Returns received by a rating authority are to be transmitted to the assessment committee, and sent back by them when the list has been approved (*m*).

An assessment committee has powers to require returns, similar to those possessed by a rating authority; but may exercise them at any time (*n*), and not only when a new valuation list is to be made.

Preparation and deposit of the draft list.—As soon as may be after the period allowed for the delivery of returns has expired, the rating authority must cause a draft list to be prepared for their area, or for any part into which it has been divided (*o*). The list must be in the prescribed form (*p*), and in preparing it the rating authority are to comply with any directions as to procedure given by the assessment committee (*q*). As soon as may be after it has been prepared, the authority are to cause the draft list to be signed by their clerk, or any officer of theirs authorised to act in their behalf generally or in this particular matter (*r*).

It is then to be deposited at the offices of the authority (*s*), a copy of the list being forthwith transmitted to the assessment committee (*t*). A notice of deposit is immediately to be published by affixing it in some public or conspicuous situation in the area

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(*l*) Cf. *Adams* v. *Tuer* (1923), 87 J. P. 193.

(*m*) S. 40 (4), (5). (*n*) S. 41.

(*o*) S. 25 (1); as to division of the area, see note (*k*), *supra*, p. 106; and as to delegation to a committee, *vide supra*, p. 107.

(*p*) *Supra*, p. 111.

(*q*) S. 25 (3); the authority may be assisted by a valuer, s. 38; *cf.* p. 240, *infra*.

(*r*) S. 25 (2), read with definition of "clerk" in s. 68.

(*s*) S. 25 (4); 4th Sched., Part I, rule 1.

(*t*) S. 25 (2).

affected, as well as by publishing it in one or more newspapers circulating in the rating authority's area (*u*). This notice is also to be given to the county valuation committee (*x*). The draft list is then to be open to inspection for twenty-one days from the date on which the notice is published (*y*); if the publication by the above methods takes place on more than one day, the time must be reckoned from the latest of these days. Any ratepayer and any occupier who pays a rent inclusive of rates, or any authorised representative of either, may during the period inspect the draft list without payment, and take copies or extracts therefrom (*z*).

The notice of deposit is to state the latest date for giving notice of objection and the mode of making objection (*a*). Where the draft list contains some hereditament not previously assessed, or where any of the values inserted in it for any hereditament exceeds the corresponding value as stated in the valuation list already in force (*b*), the rating authority are to send the occupier notice of the values inserted in the draft list, within seven days after it is deposited (*c*). Any of the above notices may be signed by the clerk, or other officer authorised as above (*d*).

(*u*) 4th Sched., Part I, rule 2; s. 46.

(*x*) Rule 2. (*y*) Rule 4.

(*z*) S. 60 (1), (4), the ratepayer or occupier need not be a ratepayer or occupier in the rating area to which the list relates.

(*a*) 4th Sched., Part I, rule 2; as to objection, *vide infra*, p. 232.

(*b*) In any parish in which there was no valuation list before the Act of 1925 was in operation (because the Union Assessment Acts did not apply), the notice must, as regards the first new valuation list made under this Act, be sent if the value stated therein exceeds the value as stated in the last poor rate assessment.

(*c*) Rule 3.

(*d*) S. 59 (3), see note (*r*), *supra*; as to service, see s. 59, *infra*, p. 295.

An omission on the part of the rating authority to comply with any of the above requirements may be fatal to the validity of the list (*e*).

Immediately on the expiration of the twenty-one days' period of deposit, the original draft list is to be transmitted to the assessment committee (*f*).

Objection to draft list.—Objections to the draft list may be lodged with the assessment committee before the expiration of twenty-five days from the date on which that list has been first deposited (*g*).

Any person may lodge an objection who is aggrieved ; the causes of grievance are considered below in connection with " Grounds of Objection " (*h*). Among the persons who may be aggrieved, a county valuation committee, and any body having power to levy a rate or to issue a precept to a rating authority (*i*), are expressly included.

An occupier of a rateable hereditament in the rating area is of course a person who may be aggrieved ; so indeed would the occupier of an exempted hereditament if any value were entered in the draft list in respect of it (*k*).

An owner who is rated instead of the occupier, or who is bound by an agreement with the rating authority

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(*e*) *R.* v. *Chorlton Union* (1872), L. R. 8 Q. B. 5 ; *Reigate Union* v. *S. E. Rail. Co.*, [1894] 1 Q. B. 411 ; *Mayor, etc., of Westminster* v. *Army and Navy Auxiliary Supply, Ltd.*, [1902] 2 K. B. 125 ; see also the remarks on s. 28 (3) and s. 44, *infra*, p. 244.

(*f*) Rule 5 ; a copy is sent before deposit, see p. 230.

(*g*) S. 26 (1) ; note that the time runs from the date of deposit, not from the date of notice of deposit. That notice must, however, state the latest date at which objections may be made, *supra*, p. 229. In calculating the period, the date of deposit is excluded, and the date of serving the notice of objection included, cf. *Browne* v. *Black*, [1912] 1 K. B. 316 ; *Williams* v. *Burgess* (1840), 12 Ad. & E. 635.

(*h*) *Infra*, p. 235. (*i*) See definition of local authority in s. 68.

(*k*) *Vide supra*, p. 112.

to pay or collect rates is expressly given a right of objection concurrent with the occupier's right (*l*). An owner who is liable to have rates deducted against him by an occupier (*m*), or who is bound to pay rates by agreement with his tenant, appears to have similar rights (*n*). Where a building or portion of a building occupied in parts is valued in the list as a single hereditament, the person who receives the rent payable in respect of the parts is deemed to be the occupier (*o*), and therefore possesses the right of objection, which those who would otherwise be rateable as occupiers have not. In the case of tithe rentcharge, the owner has the right of objection (*p*), and where the rentcharge is vested in Queen Anne's Bounty the surveyor of taxes has a concurrent right (*q*).

Apart from the above provisions and agreements, it would appear that any owner has such an interest in the valuation of any hereditament owned by him as to make him a "person aggrieved" if that valuation is unfair or incorrect.

The person who objects in any of the above capacities need not necessarily be the person whose name is entered in the draft list as owner or occupier (*r*).

The notice must be in writing, and must specify the grounds of objection (*s*).

(*l*) S. 11 (8); see sub-ss. (1), (2), (3), and Chap. III.

(*m*) Poor Rate, etc., Act, 1869, s. 1, *supra*, p. 77. As to certain mines other than coal-mines, see Rating Act, 1874, ss. 8, 9 (3), and p. 63, *supra*.

(*n*) Cf. *R.* v. *Brentford Union* (1907), 71 J. P. 281.

(*o*) S. 23, *supra*, p. 38.

(*p*) S. 68 (2). See p. 60, as to the definition of "tithe rentcharge" and "owner" in the Tithe Act, 1891.

(*q*) Tithe Act, 1925, s. 7 (5), *vide supra*, p. 60.

(*r*) *R.* v. *Brentford Union*, *supra*.

(*s*) 4th Sched., Part II, rule 1; as to Grounds of Objection, see below.

It must indicate the entry or entries in the list which give rise to the objection ; and may include any number of hereditaments comprised in the same list, in respect of which the objector is the occupier, or is entitled to object under the provisions above cited (*t*).

The notice may be served by being delivered at or sent by post to the assessment committee's office, addressed to the committee or to their clerk (*u*). The objector need not serve the notice on any other person ; but the assessment committee must, within three days after an objection is lodged with them, cause copies to be sent to the rating authority, and to the occupier of the hereditament concerned, if he is not himself the objector (*x*) : *e.g.* where the objector is the owner of the hereditament concerned, or where the objection is by the owner or occupier of one hereditament against the under-assessment or omission of another. An owner who is rated, or is liable under an agreement with the rating authority (*y*), the person who receives the rents payable in respect of the parts of a building or portion of a building assessed as a single hereditament (*z*), and the Surveyor of Taxes in respect of a tithe rentcharge vested in Queen Anne's Bounty (*a*), are each entitled to a copy, if the objection is not made by him.

Even if no notice has been given, or given in time, an objection may yet be considered by the assessment committee ; but the consent of the rating authority

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(*t*) S. 45, see above.

(*u*) S. 59 (3) ; the notice of deposit (see p. 231, *supra*) is to state the mode of giving notice, which must include the address of the committee. See above as to the time allowed.

(*x*) 4th Sched., Part II, rule 2.

(*y*) S. 11 (8). (*z*) S. 23.

(*a*) Tithe Act, 1925, s. 7 (5).

must be obtained, as well as that of any other person who would have been entitled as above to a copy of the notice of objection (*b*).

Grounds of Objection.—The ways in which a person may be aggrieved so as to entitle him to lodge objection are thus stated (*c*) :

> " By the incorrectness or unfairness of any matter in the draft list,
>
> " By the insertion therein or omission therefrom of any matter,
>
> " By the valuation as a single hereditament of a building or a portion of a building occupied in parts (*d*),
>
> " Or otherwise with respect to the list."

This enumeration appears to render admissible any reasonable ground of objection to the list. The most common objection is, of course, directed against the excessive assessment of a hereditament of which the objector is himself the occupier, or the owner as the case may be (*e*). But he may also object on the ground that the assessment of his hereditament has not been arrived at by means of an independent valuation (*f*) ; or that it is excessive in comparison with a hereditament owned or occupied by another person (*g*), or with a whole class of such hereditaments (*h*). Where a

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(*b*) S. 27 (1), *infra*, p. 238. (*c*) S. 26 (1).

(*d*) See s. 23, *supra*, p. 38.

(*e*) See pp. 233–4, for cases where an owner may object as well as, or instead of, the occupier.

(*f*) *Stirk* v. *Halifax Assessment Committee*, [1922] 1 K. B. 264, *supra*, p. 116.

(*g*) *Pointer* v. *Norwich Assessment Committee*, [1922] 2 K. B. 47, 471, *supra*, p. 118.

(*h*) *Stirk's* case, *supra* ; *Double* v. *Southampton Assessment Committee*, [1922] 2 K. B. 213 ; *Hunter* v. *Swindon Assessment Committee*, *ibid.*, 630, *supra*, p. 116.

rating area has been divided into parts for the purpose of a new valuation list, and the valuation lists for the various parts are made in different years (*i*), the complaint of inequality cannot be brought on the ground that a hereditament in another part (which is to be valued in a subsequent year) is at present inadequately assessed (*k*) ; but apart from cases of that kind, it would seem that inequality may be alleged by comparison with the entries in a valuation list for any other rating area, or part of a rating area, which is liable to contribute to the expenses of the same county council, board of guardians or other precepting authority (*l*).

Further, the objection may be expressly directed to secure, not merely a reduction of the objector's own assessment, but an increase in the assessment of another hereditament which is alleged to be under-assessed, or the insertion of another hereditament alleged to have been omitted (*m*).

The word " unfairness " covers several of the grounds of objection above indicated ; and the sweeping words " or otherwise with respect to the list " appear to cover (among other matters) any technical objections to the validity of the list (*n*) ; but an objection on the ground of the omission of any matter that should be inserted must be taken with regard to that particular matter and can be cured by its insertion ; that omission does not of itself render the list invalid, nor does a failure to complete any stage of the proceedings within

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(*i*) S. 19 (1), proviso (*b*), *supra*, p. 110.

(*k*) S. 26 (2).

(*l*) See Chap. I.

(*m*) *R.* v. *Recorder of Bristol*, [1913] 3 K. B. 104.

(*n*) If such an objection is taken, it lies upon the objector to prove it, s. 28 (3), *infra*, p. 244.

the time required (*o*). But an omission to carry out any proceeding enjoined by s. 25 or by Part I of the Fourth Sched., especially as regards giving notice of deposit, and depositing the draft list for a sufficient time, may afford ground of objection to the validity of the list (*p*).

Where the ground of objection is covered by any of the specific words above quoted from s. 26 (1), it is sufficient in the notice to use whichever of those words is appropriate (*q*). But where the grievance is an excessive, or an insufficient, assessment, it will be well to indicate whether objection is taken to the gross, the net annual, or the rateable value, or to any one or more of these. Where the ground of objection is covered only by the words " or otherwise " in that sub-section, it must be specifically stated.

The hearing of objections.—The assessment committee are to hold meetings for considering objections of which notice has been duly given, and with consent, any other objections (*r*). These meetings may be held at any time after the expiration of thirty days from the date of deposit (*s*), or earlier, if enough notices of objection have been received to make this desirable, and the rating authority are ready (*t*). The assessment committee must give to the rating authority concerned at least fourteen days' notice of any such meeting, and to the objector (and to the occupier of the hereditament if some other person is the objector (*u*)) at least

(*o*) S. 44. As to time, *vide infra*, pp. 241, 242, 243.

(*p*) *Vide supra*, pp. 230, 231; and see note (*e*), p. 232.

(*q*) *Gateshead Union* v. *Redheugh Colliery, Ltd.*, [1925] A. C. 309.

(*r*) S. 27 (1). As to notice, and consent in the absence of notice, *vide supra*, pp. 232–234.

(*s*) *Supra*, p. 230.

(*t*) 4th Sched., Part III, rule 1.

(*u*) As to such persons, see pp. 232, 233, 236, *supra*.

fourteen days' notice of the date when the particular objection will be heard (*v*).

On the consideration of an objection, the objector and the occupier of the hereditament, and the other persons who are given rights in relation to objections as well as, or in place of the occupier, are entitled to be heard (*x*), as well as the rating authority and the county valuation committee (*y*). The objector himself is not obliged to appear, and his objection must be heard and determined even if he does not (*z*); but he must do so if he wishes to preserve his right of appeal to quarter sessions against the decision (*a*).

An assessment committee is not a court; and the proceedings upon an objection are of an informal nature, intended to settle differences without recourse to the courts (*b*). Consequently, the objector or any of the other parties may be represented by a surveyor or, indeed, by any agent, as well as by counsel or solicitor (*c*). Neither the objector, nor any other party, is bound to adduce evidence (*d*). Any valuer employed by the assessment committee to value the heredita-

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(*v*) 4th Sched., Part III, rule 2; the day on which the notice is given and that on which the meeting is to be held must both be excluded in calculating the 14 days, *R.* v. *Shropshire JJ.* (1838), 8 Ad. & E. 173; *Mitchell* v. *Foster* (1840), 12 Ad. & E. 472.

(*x*) See the provisions and agreements referred to on p. 233, *supra.*

(*y*) S. 27 (1); but see s. 18 (3), proviso, as to notice.

(*z*) *Gateshead Union* v. *Redheugh Colliery, Ltd.*, [1924] 1 K. B. 369; [1925] A. C. 309.

(*a*) This applies also to any other party, s. 31 (1); as to appeals, see Chap. XV.

(*b*) *R.* v. *St. Mary Abbotts*, [1891] 1 Q. B. 378; *Gateshead Union* v. *Redheugh Colliery, Ltd.*, *supra.* The committee's proceedings generally are regulated by the 1st Sched.; see rule 3, as to adjournment of an objection.

(*c*) *R.* v. *St. Mary Abbotts, supra.*

(*d*) *R.* v. *Essex JJ.* (1882), 46 J. P. 724.

ment (*e*) may be called as a witness (*f*); but he must not be present while the committee consider their decision, nor may any of the parties, nor any witness (*g*).

Any question that is raised as to the inclusion of any particular plant or machinery in the valuation in accordance with s. 24 of the Act of 1925 (*h*) may, with the written consent of the parties, be referred by the assessment committee to a member of the panel appointed for the purpose, and his award on the point will be conclusive (*i*).

When the objection has been determined, the assessment committee must forthwith send notice of it to the objector, to the occupier if he is not the objector, and to the rating authority (*k*). The notice must be in writing and must indicate the right of appeal, and the time and manner in which it may be exercised (*l*).

There seems to be nothing to prevent an assessment committee from reviewing their decision on an objection (*m*); but if there is a rehearing, notice of it should be given to the objector and all the parties entitled to copies of the original notice of objection (*n*).

Revision of the draft list.—The hearing and determining of objections form part of the process of revising the list by the assessment committee; but they may make such alterations, insertions, and corrections as they think proper for any other reason, whether

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(*e*) See p. 240, *infra*.

(*f*) 4th Sched., Part III, rule 3.

(*g*) Rule 4.

(*h*) *Vide supra*, p. 160.

(*i*) S. 24 (7)–(9); as to procedure, etc., see the Plant and Machinery (Valuation for Rating) Rules, 1927, St. R. & O. 1927, No. 479/L. 21.

(*k*) Rule 5; as to the occupier, *vide supra*, p. 233.

(*l*) Rule 6; as to appeals, see Chap. XV, p. 257. As to the methods by which the notice may be sent, see s. 59 (1).

(*m*) *Veasey* v. *Beardsley, Ltd.* (1924), 23 L. G. R. 118.

(*n*) *Vide supra*, p. 234.

an objection has been made or not (*o*). They thus have power to increase any figure of value appearing in the draft list. They may appoint a competent person to give them advice or assistance in connection with the valuation of any hereditaments in their area, for the purposes of their revision of the list; and he may enter on, survey, and value any hereditament regarding which they give him a direction and a written authorisation (*p*).

Where (otherwise than in determining an objection) a hereditament is inserted in the list on revision, or any value of a hereditament already included is increased, the committee must forthwith serve a notice of the alteration on the occupier of the hereditament, stating that any person aggrieved may lodge an objection within fourteen days after the date of service, and that the date of hearing will be duly notified to the person making the objection (*q*). An owner who is rated or bound by an agreement to pay rates is also entitled to notice of the alteration, etc. (*r*); as is the surveyor of taxes in respect of a tithe rentcharge vested in Queen Anne's Bounty (*s*). An owner of any tithe rentcharge (*t*) and the person who receives the rents in respect of the parts of a dwelling-house or part assessed as a single hereditament (*u*), possess the rights of the occupier in this respect as well as in others.

(*o*) S. 27 (2); as to the method of making alterations, etc., see Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rule 6, in Appendix II.

(*p*) S. 38; to authorise entry, the direction and authorisation must refer to a specific hereditament or hereditaments. It must be signed by the clerk or other authorised officer, see s. 68. As to the valuer's attendance at the hearing of an objection, *vide supra*, p. 238.

(*q*) 4th Sched., Part III, rules 7, 8; as to service, see s. 59 (1), (2).

(*r*) S. 11 (8); see Chap. III.

(*s*) Tithe Act, 1925, s. 7 (5), *supra*, p. 60.

(*t*) S. 68 (2).

(*u*) S. 23.

Any person aggrieved by any alteration, insertion, or correction made otherwise than in determining an objection, may lodge an objection within fourteen days after the date on which notice of the alteration, etc., is served on him (*x*); and the same conditions as are applicable to the hearing and so on, of objections to the draft list are applicable to such objections (*y*).

The meaning of "person aggrieved" in s. 27 has already been considered; and it has been suggested that the phrase includes certain other persons besides occupiers and persons given the rights of occupiers. But in the case of an alteration, etc., to the draft list the right of objection appears to be limited, by the wording of the proviso to s. 27 (2), to those who are entitled (as above stated) to receive notice of the alteration, etc. Failure by the assessment committee to serve such notice on any person entitled to it cannot, however, deprive him of his right to lodge objection, but would appear to render the list invalid, at any rate so far as regards the entry inserted, or altered, or corrected, by the committee (*z*).

All objections (whether lodged against the list as drafted, or against any alterations, etc., made by the assessment committee in their revision) need not be disposed of before the list is finally approved (*a*); any that have not been determined by that time, are to be

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(*x*) S. 27 (2), proviso; in the calculation of the time, the date of service on the occupier is excluded, and the date of lodging the objection is included, *Williams* v. *Burgess* (1840), 12 Ad. & E. 635; *Robinson* v. *Waddington* (1849), 18 L. J. Q. B. 250.

(*y*) 4th Sched., Part III, rule 9.

(*z*) Cf. *Reigate Union* v. *South Eastern Rail. Co.*, [1894] 1 Q. B. 411; the burden of proving invalidity is on the person who alleges it, s. 28 (3).

(*a*) *Infra*, p. 242.

dealt with as soon as possible thereafter, and any amendment in the list thereby rendered necessary is to be made in the same way as a current list is amended (*b*), the amendment taking effect, however, as from the date on which the list comes into force (*c*). The amount ultimately due in respect of rates made after that date in respect of the hereditament will be the same as if the objection had been determined, and the valuation list altered accordingly, before the list was finally approved; but pending the decision of the objection, the rates so made may be collected in the first instance according to the rateable value which appears in the list as finally approved (*d*).

Final approval: totals.—The assessment committee must finally approve the draft list (with all alterations, etc., made in it by the committee up to the time of approval) on or before January 31 or July 31, in the year in which the list is to come into force (*e*); as has been seen, it is not necessary for the committee to have determined all objections before final approval (*f*); but, if they have determined all such as have not been postponed at the request of any party, they may finally approve the list before the date mentioned (*g*). Immediately before approval is given, however, the several columns in the list containing entries as to gross, net annual, and rateable values, are to be totalled at the foot of each page, and these totals are to be carried to a summary or summaries which will

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(*b*) *Vide* Chap. XIV.

(*c*) 4th Sched., Part III, rule 10; as to the date when a valuation list comes into force, and its operation, *vide supra*, pp. 110, 106.

(*d*) See s. 20 (1); as to overpayment, see p. 253; and as to appeal, see p. 256.

(*e*) See "Operation of the List," Chap. V, *supra*, p. 110.

(*f*) *Supra*, p. 241. (*g*) S. 28 (1).

show the total of each column, and the grand total of all the columns of rateable value: for the rating area as a whole, as well as for each parish, and each part of a parish which is a contributory place or an area otherwise subject to separate or differential rating (*h*). Where there is a separate valuation list for part of a rating area (*i*), the totals and summaries must of course be cast and prepared separately for that part, and for each parish or part of a parish which it contains.

When this has been done, the final approval is given by a resolution of the assessment committee (*k*). A declaration of approval and certificate of compliance with the Act is appended to the list and signed by three members of the committee, present at the meeting at which that resolution is passed (*l*).

When the declaration and certificate has been signed, the assessment committee shall forthwith transmit the list to the rating authority concerned, who are to deposit it at their offices (*m*). The list so transmitted is the valuation list for the rating area, or part of a rating area as the case may be, and comes into force on the date fixed by, or under, s. 19 (*n*). Subsequent amendments are considered below (*o*). The list is not rendered invalid by a failure to carry out any proceeding with respect to it at the required time, or by

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(*h*) S. 28 (2); Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rule 7, read with definition of "parish" in rule 1, as to which, *vide supra*, p. 112.

(*i*) *Vide supra*, p. 111.

(*k*) As to their proceedings, see 1st Sched. to the Act of 1925.

(*l*) S. 28 (1); Form of Valuation List Rules, rule 2, and Form B.

(*m*) S. 28 (1), (4).

(*n*) S. 28 (3). As to these dates, *vide supra*, p. 110; and as to the effect of a valuation list on rates, *vide supra*, p. 106.

(*o*) *Vide*, Chap. XIV.

reason of any matter being omitted (*p*). But the proceedings laid down by the Act must be carried out, and the values arrived at on proper principles, in order for the list to be valid (*q*); though the burden of proving invalidity rests upon the person who alleges it (*r*).

At the same time, the assessment committee are to notify the approval and the date of the approval to the clerk of the peace for every court of quarter sessions (whether county or borough) which has jurisdiction over any part of the rating area concerned (*s*).

A record of all the totals above referred to is to be kept by the committee in a book which is called "Record of Total Rateable Values" (*t*); but the name is unfortunate, for the book will also contain certain totals of gross and net annual values. The committee will also retain in their possession the copy of the draft list originally transmitted to them (*u*); both this copy and the record of totals will be kept corrected so as to agree with the valuation list (*x*).

The valuation list deposited with the rating authority, and the record of totals kept by the assessment committee, may be inspected, and copies or extracts therefrom may be taken as in the case of a rate (*y*).

Correction of clerical errors.—Any clerical or arithmetical error in the valuation list, whether in an

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(*p*) S. 44.

(*q*) See Chap. V.

(*r*) S. 28 (3).

(*s*) S. 28 (1). This is done for purposes in connection with appeals, the time for giving notice of which runs from the date of approval of the list, *vide infra*, pp. 257, 259.

(*t*) S. 29; Form of Valuation List Rules, rule 9.

(*u*) Under s. 25 (2), *supra*, p. 230.

(*x*) Form of Valuation List Rules, rule 10, rule 9.

(*y*) S. 60, *vide supra*, p. 14.

individual entry or in a total, may be corrected at any time by an assessment committee ; but a correction in an individual entry is not to be made unless seven days' notice has been given to the rating authority, and to the occupier (*z*).

(*z*) S. 30. The "occupier" for this purpose includes an owner who is rated, or liable under an agreement, as well as the other persons mentioned on p. 240, *supra*.

CHAPTER XIV

AMENDMENT OF CURRENT VALUATION LISTS

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Amendment of current lists.—Apart from the correction of clerical and arithmetical errors (*a*), any amendment of a current list is initiated by means of a "proposal" (*b*). A proposal may be made whether the correction desired is one which ought to have been made when the list itself was first made, or whether it is due to a change of circumstances that has taken place since that time ; and when, under s. 5, a rate has been amended (*c*) owing to any newly erected or unoccupied hereditament having come into occupation, to any change in occupation, or to any single rateable hereditament having become liable to be rated in parts, a proposal for amendment of the valuation list in force is a necessary consequence. In the class of cases arising out of its action under s. 5, the rating authority must make the proposal ; but in general, it may be made by any person (including the county valuation committee and any local authority) who is aggrieved for any of the reasons which have been described in connection

(*a*) *Supra*, p. 244. (*b*) S. 37 (1).
(*c*) *Vide supra*, p. 14.

with the right of objecting against the draft list when it is made (*d*). The right of proposal is therefore equally wide with the right of objection, and is open to the same persons and authorities. There are no limiting words: and any point in which a valuation list fails to represent, or has ceased to represent, fairly and correctly the values and other particulars that it ought to contain, can be set right by means of a proposal (*e*).

Procedure on proposals.—The procedure is somewhat elaborate. The proposal is made in writing, specifying the grounds (*f*); it must of course state in what particulars it is proposed to amend the list; but the grounds may be stated generally by using any of the phrases employed in s. 37 (1) that is appropriate to the case (*g*). A proposal if made by an occupier or ratepayer may include all or any of the hereditaments comprised in the same list of which he is, or is deemed to be, the occupier or ratepayer (*h*). The proposal must be served on the rating authority, except of course where it is made by that authority (*i*). The rating authority must within seven days transmit a copy of any proposal made by it, or received by it from any other person (including the county valuation committee

(*d*) *Vide supra*, p. 232; except that it uses the word "inclusion" instead of "insertion," s. 37 (1) employs the same language in this respect as s. 26 (1).

(*e*) As to the Form and Contents of the List, see Chap. V.

(*f*) S. 37 (2).

(*g*) But if the ground is only covered by the words "or otherwise," it should be specifically described. Cf. "Grounds of Objection," *supra*, p. 235.

(*h*) S. 45; see note (*k*), *infra*. This does not apply to a rating authority or the county valuation committee, or to any local authority not acting as an occupier or ratepayer.

(*i*) S. 37 (2) (*a*); as to service, see s. 59 (3).

or any other local authority), to the occupier of the hereditament affected, and to the owner if he is rated or bound by an agreement to pay rates, and to the surveyor of taxes if the hereditament is a tithe rent-charge vested in Queen Anne's Bounty; or, where there is no occupier, then to the owner (*k*). The rating authority is to send returns and particulars of all proposals to the assessment committee from time to time as directed by the committee (*l*). If a copy is not transmitted to every person thus entitled to it, all further proceedings on the proposal will be invalid; and any amendment of the list made in consequence of the proposal will have no effect (*m*).

The rating authority must transmit to every person entitled to a copy of the proposal a notice of the date of meeting of the assessment committee at which the proposal will be considered, not less than twenty-one days before that date; this notice must indicate the right of objection (*n*).

Objection to proposal.—Any person to whom a copy of a proposal is transmitted may give notice of objection thereto in writing; the notice must state the grounds of objection, and must be given to the rating authority not less than seven days before the date of the meeting indicated in the notice which the objector has received from the authority (*o*). The rating autho-

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(*k*) S. 37 (3); the provisions which give the persons above indicated the same rights as an occupier are noted, *supra*, p. 233.

(*l*) S. 37 (6).

(*m*) Cf. *Reigate Union* v. *S. E. Rail. Co.*, *supra*, p. 241.

(*n*) S. 37 (3); the date of the meeting is fixed under sub-s. (11).

(*o*) S. 37 (4); the objection may apparently proceed on any ground which shows the unfairness or incorrectness of the proposal. In calculating the seven days, the date of giving the notice and the date of the meeting should both be excluded.

rity may themselves give notice of objection to a proposal not made by them, stating the grounds, to the person who has made the proposal as soon as may be after they receive it ; and must also give him a copy of any notice of objection received by them against his proposal, as soon as received (*p*). They must also transmit to the assessment committee particulars of every notice of objection given or received (*q*).

It will be noted that a local authority other than the rating authority directly concerned (unless it is itself the occupier or owner of the hereditament to which the proposal relates) has no right to receive a copy of the proposal, and has therefore no right of objection thereto. The county valuation committee, if they desire to appear in opposition to a proposal, or to an objection, brought by the occupier of the hereditament concerned, must give him notice to this effect (stating the grounds) not less than three days before the hearing (*r*).

Hearing.—A proposal is heard and determined as if it were an objection to a draft list (*s*) ; and any objection of which notice has been given will be heard at the same time. A rating authority, however, though they may appear in support of the proposal, cannot be heard in opposition to a proposal unless they have given notice of objection, as above indicated (*t*) ; a county valuation committee may appear in support, but their right to oppose is limited in certain cases by

(*p*) S. 37 (5) ; see last note.

(*q*) S. 37 (6).

(*r*) S. 18 (3), proviso, read with s. 37 (7).

(*s*) S. 37 (7) ; applying s. 27 (1), and 4th Sched., Part III, rules 2–4 ; for an account of the procedure and powers of the committee, *vide supra*, pp. 237–239.

(*t*) S. 37 (5).

the necessity of giving notice (*u*); a person who has received a copy of the proposal is not entitled to be heard unless he has given notice of objection (*x*).

If any question whether any machinery or plant should be included in the valuation is raised in connection with a proposal or an objection thereto, it may be referred by consent as in the case of an objection to a draft list (*y*).

Any of the proceedings which a rating authority or county valuation committee may take or resist under s. 37 may be instituted, carried on, or defended by an officer acting under a special or general authority of that body, if s. 31 (9) is to be read as applying these proceedings (*z*).

Proceedings after determination: effect of amendment.—After the proposal and any objection thereto has been determined, the assessment committee must forthwith send notice of their decision to the person who made the proposal, the objector, the occupier, and the rating authority (so far as these are not the same person (*a*). There is a right of appeal, to be exercised within twenty-one days after the date of the decision itself (not the date of the notice); the notice must be sent in time to allow of this, and must indicate the time and method of appealing (*b*). Any correction, insertion, etc., rendered necessary by the decision must be recorded in the assessment committee's minutes;

(*u*) S. 27 (1), read with s. 18 (3), proviso; see note (*r*), *supra*, p. 249.

(*x*) S. 37 (4); the proviso to s. 27 (1) does not seem to have any application here. If the occupier has not received a copy he may appear and be heard, without giving notice, s. 27 (1); but if he has received a copy, he must give notice of objection in order to be heard, s. 37 (4).

(*y*) See p. 239, note (*i*). (*z*) *Vide infra*, p. 255.

(*a*) 4th Sched., Part III, rule 5, applied by s. 37 (7); as to the persons who have similar rights to the occupier, *vide supra*, p. 233.

(*b*) Rule 6; s. 37 (8). The right of appeal is dealt with in Chap. XV.

and the copy of the list kept by them, as well as their record of totals, must be corrected accordingly (*c*). They must give notice of any alterations and additions so made to the occupier, or if there is none, to the owner of the hereditament (*d*). The rating authority must alter the valuation list, which is in their custody (*e*).

An alteration or addition which has been duly made in compliance with the above provisions becomes part of the valuation list in force, and therefore all subsequent rates must be made in conformity with the valuation list as so amended (*f*), except that, where a new or altered hereditament is concerned, which is not yet in occupation when the subsequent rate is made, that rate will not be effective (on the amended valuation) until the date when the occupation commences (*g*).

The amendment made may also affect the rate current at the date when the proposal was served by the occupier on the rating authority (*h*), or, where the proposal was not made by the occupier, current at the date when the copy of the proposal was transmitted to the occupier or owner (*i*); it will not affect any rate

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(*c*) S. 37 (9); Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rules 6, 8–10, *vide supra*, p. 244.

(*d*) S. 37 (9); this is a separate notice from the notice of the committee's decision; see note (*a*), above.

(*e*) S. 37 (9); read with s. 28 (4), (5), and Form of Valuation List Rules, rule 6, *vide supra*, p. 244.

(*f*) S. 37 (10), read with s. 20 (1), *vide supra*, p. 106, as to the conclusiveness of the valuation list on rates, and *supra*, p. 15, as to changes of occupation.

(*g*) S. 37 (10), proviso, see below.

(*h*) *Supra*, p. 247.

(*i*) *Supra*, p. 248; this is only seven days after the service of the proposal, see sub-s. (3), but a new rate may have been made in the interval.

the period of which expired before the relevant date (*k*). In general, the amendment will affect the rate so current, as from the commencement of the period of the rate (*l*); but in certain specified cases, the current rate will only be affected for a part of its period (*m*). If the hereditament is newly erected or constructed, or has been out of occupation on account of structural alterations, the rate will be payable on the new or altered rateable value only as from the date when the new or altered hereditament comes into occupation. If the rateable value has been altered, owing to the making of structural alterations (without the hereditament having been out of occupation in the meantime), or owing to the total or partial destruction of any building or other erection by fire or any other physical cause, the rate payable will be calculated on the rateable value appearing in the unamended list until the date when the alterations were completed, or the date when the destruction took place, and thereafter on the rateable value as amended in consequence of the proposal. So where a tithe rentcharge, etc., is extinguished (*n*) (in whole or in part) and the rateable value of the land out of which it issued is increased in consequence, the rate is payable on the increased rateable value of the land as from the date on which the extinction takes effect; and the rate will be payable until that date in respect of the rateable value of the tithe rentcharge, etc. It is immaterial that any of the above dates is anterior to the date of the proposal, or to the date of the transmission of copies as the case may be, so long as the rate is already current on that date (*o*).

(*k*) S. 37 (10), with proviso; as to the period of a rate, see s. 4, *supra*, p. 10.

(*l*) S. 37 (10).

(*m*) *Ibid.*, proviso.

(*n*) *Vide supra*, p. 137.

(*o*) As to the commencement of the period of a rate, see s. 4 (2), (3), *supra*, p. 10.

If the rate has already been paid, any amount overpaid is to be repaid or allowed, and any excess found to be due may be recovered (*p*); there is provision in section 5 for an alteration of the rate book in consequence of the amendment made in the valuation list on a proposal (*q*).

Objections to draft list decided after final approval.—As has been seen (*r*), it is not incumbent on an assessment committee to hear and determine all objections brought against a draft list or against alterations made by them on revision of a draft list, before finally approving that list. Any objection still outstanding on the date of final approval is to be determined as soon as possible thereafter, and if the committee give effect to the objection, the list as finally approved has to be altered; that alteration is made as if it were made upon a proposal (see above); but every rate made after the date on which the valuation list comes into force (*s*) will be affected by the alteration (*t*), that is to say, the amount of every such rate will be calculated according to the rateable value fixed as a result of the objection, subject of course to the hereditament being in occupation (*u*). The time for appealing runs as in the case of a proposal (*x*).

(*p*) S. 36 (2), applied by s. 37 (10).

(*q*) *Supra*, p. 15. Certain alterations in the rate must be followed by a proposal to amend the list, s. 37 (1), *supra*, p. 246.

(*r*) *Supra*, p. 241.

(*s*) As to this date, *vide supra*, p. 110.

(*t*) 4th Sched., Part III, rule 10, read with s. 37 (10). The proviso to that sub-section appears to have no bearing on this point.

(*u*) As to commencement of occupation during the currency of a rate, see s. 4, *supra*, p. 10.

(*x*) *Vide supra*, p. 250, and see Chap. XV.

CHAPTER XV

APPEALS RELATING TO THE VALUATION LIST

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The right of appeal.—The valuation list as in force at any time is, as has been seen, conclusive evidence of the values of the several hereditaments included in the list (*a*). Any grievance which arises with regard to those values, as fixed by the assessment committee either before final approval of the list or in amending the current list (*b*), can therefore be set right only by an appeal relating to the list (*c*).

The appeal (*d*) is against the decision on an objection (whether the objection was against the original draft list (*e*) or against an alteration made by the assessment

(*a*) S. 20 (1), *vide supra*, p. 106 ; see also Chap. XIV.

(*b*) See Chaps. XIII, XIV.

(*c*) S. 14 prevents an appeal against a rate being brought on such a ground, *vide infra*, p. 276.

(*d*) S. 31 (1).

(*e*) *Supra*, p. 232.

committee, on revision of the list (*f*)), or against the decision on a proposal or an objection to a proposal (*g*); and is brought to the quarter sessions for the county or place where the hereditament is situate (*h*). It may be brought by any person who actually appeared before the committee on the consideration of the objection or proposal (*i*); this may include not only an occupier or owner who alleges that the value of his own hereditament is assessed too highly, or that another person is under-assessed, but the rating authority or the county valuation committee (*k*), who allege the contrary. However, none of these can appeal, unless the individual or body has actually attended before the committee to support or resist the objection or proposal. An appeal by a rating authority or county valuation committee may be instituted and carried on by an officer acting under a general or special resolution of that body (*l*).

An occupier or an owner who is rated or bound by an agreement to pay the rates may include in the same proceeding all or any of the hereditaments (comprised in the same valuation list) which he occupies or for which he is rated, etc. (*m*).

Similar grounds of appeal may be taken to those which may be raised on objection (*n*), or in support of, or resistance to, a proposal (*o*).

(*f*) *Supra*, p. 241. (*g*) S. 37 (8); see Chap. XIV.

(*h*) *Supra*, p. 112; as to parts of counties for which quarter sessions are held separately, see s. 32 (6).

(*i*) S. 27 (1); s. 37 (8), see pp. 232–235, 246–247.

(*k*) S. 18 (3); a specific notice additional to the notice of appeal is required by the proviso to that sub-s. As to proposal, see s. 37 (8).

(*l*) S. 31 (9).

(*m*) S. 45; as to persons having the same rights as occupier for purposes of appeals, see p. 233.

(*n*) These are indicated, *supra*, pp. 235–237; *q.v.*

(*o*) See Chap. XIV.

An appearance before the committee by a person who objected to, or made a proposal to amend, any of the values appearing in the list for a particular hereditament will entitle the objector to attack the decision given, on any ground applying to that value which he has not precluded himself from taking either by the terms of his notice, or by his statements before the committee (*p*). But this observation does not apply to the persons who appeared in resistance to the objection or proposal; the appeal being "against the decision" of the assessment committee, such persons can only appeal so as to contest again some issue upon which the assessment committee decided, or possibly to contest some new issue which arises only by reason of that decision (*q*), such as an inequality of assessments alleged to be due to a reduction made by the committee in the value of the particular hereditament which was the subject of objection or proposal.

Any rate made in accordance with the valuation list may be collected notwithstanding that an appeal is pending, but if the valuation list shows an increase over the value last previously determined, the amount due to that increase cannot be recovered while the appeal is pending, unless the hereditament has been "substantially altered" (*r*); whether there has been such an alteration may often be a matter of considerable doubt.

(*p*) *Gateshead Union* v. *Redheugh Colliery, Ltd.*, [1925] A. C. 309, *supra*, p. 238. As to those values, *vide supra*, pp. 118-121.

(*q*) The case cited in the last note has no application to such parties, for s. 1 of the Union Assessment Committee Act, 1864, under which it was decided, related only to appeals by the original objector; other parties to the objection had then no right of appeal.

(*r*) S. 36 (1); as to the effect on rates of the decision of the appeal, *vide infra*, p. 274.

Notice of appeal: time.—If the objection has been determined before the final approval of the valuation list affected, notice of appeal must be given before the expiration of twenty-one days after the date on which the valuation list is finally approved (*s*). If, on the other hand, the objection is not determined until after the valuation list has been finally approved (*t*), or if it is a decision on a "proposal," or on an objection thereto (*u*), the notice must be given within twenty-one days after the date of the decision (*x*). In either case, the notice of the decision given by the assessment committee to the objector, the occupier, and the rating authority must specify the time within which the appeal may be made (*y*). But any other party, who has the right of appeal (*z*), must depend on his own inquiries to ascertain the time for appealing (*a*). The period of twenty-one days excludes the date of the final approval or of the decision as the case may be; but the notice must be given before the twenty-first day so counted has expired.

The notice must specify the grounds of appeal, and of course the hereditament or hereditaments to which it relates (*b*).

(*s*) S. 31 (3); 5th Sched., Part I, rule 1; as to final approval of the list, see p. 242, *supra*.

(*t*) 4th Sched., Part III, rule 10, *supra*, p. 253.

(*u*) *Supra*, pp. 250, 251.

(*x*) *Ibid.*, rule 10, read with s. 37 (8). Note that the time runs from the actual date of the decision, not from the date when it is communicated.

(*y*) As well as the manner of appealing; 4th Sched., Part III, rules 5, 6, *supra*, p. 239.

(*z*) *Supra*, p. 255.

(*a*) A right to inspect the valuation list, and the minutes of the assessment committee, is given to every ratepayer, by s. 60, *supra*, p. 244.

(*b*) 5th Sched., Part I, rule 2; as to grounds on which an appeal

The notice must be served on the clerk of the court of quarter sessions for the county, riding, or division, or for the quarter sessions borough, in which the hereditament is situate (*c*). The appellant must also serve copies on the assessment committee or their clerk ; and on the rating authority or their clerk (unless the rating authority is the appellant), and on the occupier of any hereditament the under-assessment or omission of which it is sought to correct (*d*). These copies must be served within the time allowed, as above stated, for serving the original notice.

There is no provision for serving the county valuation committee with a copy of the notice.

Respondents.—Any person (or body) on whom a copy of the notice of appeal is required to be served, may appear as a respondent to the appeal (*e*). Notice of his intention to appear must be given in writing to the clerk and the appellant before the expiration of fourteen days from the date of the service of the copy, unless the time is extended (*f*). A county valuation committee may also appear, alone or in conjunction with any rating authority, assessment committee, or other county valuation committee ; in their case, the

may be brought and the hereditaments which may be included in an appeal, *vide supra*, p. 255 ; see also p. 263, as to amendment, and p. 266, as to costs.

(*c*) Rule 1 ; see s. 31 (1) ; the notice should be delivered to the clerk of the court at his office.

(*d*) Rule 2 ; s. 59 (3) indicates the method of service. A person who refers to the value of another hereditament than his own solely in order to show that his own assessment is too high by comparison, need not serve a copy on the occupier of that other hereditament, *vide infra*, p. 263.

(*e*) S. 31 (2) ; as to the costs of an assessment committee, and contributions by other assessment committees thereto, see s. 53 (1), (3).

(*f*) Assessment Appeals Rules, 1927, St. R. & O. 1927, No. 416, rules 3 (2), 5 (8) (*d*).

fourteen days for giving notice of intention to appear runs from the date of service of the copy on the assessment committee ; and if the appellant is the occupier, the notice must state the grounds of the county committee's opposition, and be served at least three days before the hearing (*g*).

If a county valuation committee or a local authority is the appellant (*h*), the occupier of the hereditament to which the appeal relates need not appear as a respondent unless he desires ; instead of doing so, he may give notice to the Court that he desires to be called as a witness. If he gives such notice, he must be called as a witness, either by a party or by the Court itself, and may be cross-examined (*i*) ; and he cannot be ordered to pay costs. Nor, it would seem, can an order for costs be made against the occupier (even without his giving such notice) or any other person who does not actually appear as a respondent, except the assessment committee (*k*).

The appearance of an assessment committee, rating authority, or county valuation committee as respondents may be authorised and carried on by any officer acting under a general or special resolution of that body (*l*).

The tribunal which hears and determines the appeal.—When a notice of appeal has been received by the clerk of the court, he is to enter the appeal for hearing at the next sitting of the Court to be held after the expiration of thirty-five days from the date on which

(*g*) S. 18 (3) ; proviso, *vide supra*, p. 255 ; Assessment Appeals Rules, rule 3 (3).

(*h*) *Vide supra*, p. 255.

(*i*) S. 31 (2), proviso (*b*).

(*k*) S. 32 (3). As to costs payable by, or to, respondents, *vide infra*, p. 266.

(*l*) S. 31 (9).

the list was finally approved (*m*). If the notice is received after that period has expired, as will often be the case where the objection has been determined after final approval, and almost certainly where the appeal is connected with a proposal (*n*), the appeal may be entered for the next sitting of the Court. In any case, the clerk of the court may postpone the hearing, on the application of any party to the appeal (*o*).

Where the appeal is brought to the quarter sessions of a county, riding, or division of a county (*p*), it is heard by a standing committee of the justices, appointed by them, and presided over by a chairman who is appointed annually by quarter sessions, having regard to judicial or other legal experience ; not less than five, or more than seven, members of the committee must take part in the determination, and the chairman or acting chairman has a casting vote ; the committee sits at one or more places as it thinks proper having regard to the convenience of the parties ; and the times of its sitting are independent of the session of the court of quarter sessions for other purposes ; the procedure of the committee is determined by quarter sessions (*q*).

Where the appeal is brought in a borough having a separate court of quarter sessions (*r*), it is heard by the

(*m*) 5th Sched., Part I, rule 4 ; s. 28 (1), *supra*, p. 244. Time must however be allowed for the delivery of the respondents' notices, p. 258, and of cases, p. 262. Information as to the date and place of hearing may be obtained by any party on application, Assessment Appeals Rules, 1927, rule 4.

(*n*) *Vide supra*, pp. 250, 253.

(*o*) 5th Sched., Part I, rule 4 ; Assessment Appeals Rules, 1927, rules 5, 6 ; see s. 34 (*c*).

(*p*) The appeal is brought in the jurisdiction in which the hereditament concerned is situate, s. 31 (1), *supra*, p. 255 ; see also s. 32 (6).

(*q*) S. 32 (1)–(3), (4), (5) ; the place for hearing any particular appeal may, however, be fixed or altered by the clerk of the court on application ; Assessment Appeals Rules, 1927, rule 5 (8) (*c*).

(*r*) See note (*p*).

Recorder at his ordinary place of sitting; the times of his sittings are, however, independent of the session of the court for other purposes (*s*).

A justice is disqualified from taking part in the hearing or determination of the appeal if he is a ratepayer in the rating area in which the hereditament is situate (*t*), or if he is a member of the assessment committee or any other authority which is a party to the appeal (including, it would seem, any authority which has received a copy of the notice of appeal (*u*), though it does not in fact appear as a respondent at the hearing), or which contributes to the expenses of the appeal (*x*), or if he is a member of a local authority which owns or occupies the hereditament to which the appeal relates; to be a ratepayer in another rating area within the same county, or to be a member of an authority which joins in appointing the assessment committee concerned or in paying its general expenses (*y*), does not disqualify (*z*). A personal or professional interest in the matter of the appeal will of course disqualify a justice from sitting (*a*).

(*s*) S. 32 (7); this provision appears to apply even in those few boroughs where other magistrates sit with the Recorder at quarter sessions for other purposes.

(*t*) Even though the hereditament may be in a different parish included in that area.

(*u*) *Supra*, p. 258.

(*x*) As to contributions by assessment committees, see s. 53 (3); and by county valuation committees, see s. 18 (3), *supra*, p. 109.

(*y*) *Vide supra*, pp. 108, 109.

(*z*) S. 31 (11).

(*a*) *R.* v. *Great Yarmouth JJ.* (1882), 8 Q. B. D. 525. The principles governing questions of disqualification owing to bias are stated in *Frome United Breweries Co., Ltd.* v. *Bath JJ.*, [1926] A. C. 586; and see p. 288, *infra*. As to the justices' clerk, see *R.* v. *Essex JJ.*, [1927] W. N. 137; where he is an officer of an authority or committee which is a party to the appeal, a substitute must act for him, Assessment Appeals Rules, 1927, No. 416, rule 14.

Delivery of cases: hearing.—Where the net annual value of the hereditament (or hereditaments, if more than one is included in the notice of appeal (*b*)) to which the appeal relates does not exceed £200, after the preliminaries above described (*c*), the appeal is ready for hearing. Where, however, the net annual value exceeds that amount, "cases" have first to be delivered by the parties, which include statements of facts and points of law. The appellant must deliver his case before the expiration of fourteen days from the date on which he first receives notice of any person's intention to appear as respondent; each respondent must deliver his case before the expiration of fourteen days from service on him of the appellant's case; two copies of each case are to be served on the clerk of the court, and one by the appellant on each respondent, and one by the respondent on each appellant; the respondents, if more than one, are not entitled to copies of each other's cases; where the appeal is to a county quarter sessions, six more copies are to be delivered by each party for the use of the court (*d*).

If any order or judgment is to be made by consent of all parties, it may be applied for in writing (*e*).

At the hearing the appellant begins (*f*). It has already been seen that the occupier, if he is not the appellant and does not appear as respondent, must (on his giving notice) be called as a witness by the court if no party calls him (*g*).

(*b*) *Vide supra*, p. 255, note (*m*).

(*c*) As by notice by respondents, *vide supra*, p. 258; and as to fixing of time and place for hearing, *supra*, pp. 259, 260.

(*d*) Rule 8; see para. (*d*) as to a case inadequately stated.

(*e*) Rule 7.

(*f*) Rule 9.

(*g*) S. 31 (2), proviso (*b*); *supra*, p. 259.

Any party may appear in person or by counsel; or, at a hearing before a committee of county quarter sessions, if the rateable value of the hereditament (or hereditaments) (*h*) to which the appeal relates does not exceed £100, by solicitor (*i*).

A scale of entering, hearing and other fees payable to the clerk is laid down (*k*).

The committee or Recorder may allow the grounds of appeal to be amended (*l*).

Evidence may be given in respect to any question properly raised by the grounds of appeal; if the appellant alleges that the valuation of the hereditament concerned is excessive in comparison with that of some other hereditament included in the same valuation list, evidence in support of that contention is admissible, although notice has not been given to the occupier of that hereditament (*m*), and the same principle appears to apply with regard to any hereditament in the same union or county. Evidence tending to show inequality of assessment between the class to which the hereditament belongs, and other classes of property is also admissible (*n*).

If application is made by a party either before the hearing, or at the hearing and before evidence of value has been given, the committee or Recorder has power (*o*)

(*h*) See s. 45, *supra*, p. 255.

(*i*) S. 32 (8).

(*k*) Assessment Appeals Rules, 1927, rule 13; Schedule, Part II.

(*l*) Quarter Sessions Act, 1849, s. 3, proviso, s. 9.

(*m*) *Pointer* v. *Norwich Assessment Committee*, [1922] 2 K. B. 47, 471, *supra*, p. 118.

(*n*) *Hunter* v. *Swindon Assessment Committee*, [1922] 2 K. B. 630; as to inequality, and as to the lack of independent valuation, generally, *vide supra*, pp. 114–118.

(*o*) S. 33; the applicant must pay the costs in the first instance; as to security for costs, see proviso (*a*).

(but is not bound) to appoint a proper person to make a valuation of any hereditaments in relation to which the appeal is made ; if the appeal relates to more than one hereditament, it would seem that the person appointed need not be directed to value all of them. The person appointed may be called as a witness by the court, and must be so called if any party wishes it ; if he is called, any party may cross-examine him (*p*). The court cannot appoint a person for the above purpose, without an application. Other evidence of value may be heard by the court after such an application has been made, and although a person has been appointed to make a valuation. The committee or Recorder are not bound to adopt the valuation when made.

The above provision is independent of the powers of reference by consent of all parties to an arbitrator or valuer, which are dealt with below (*q*).

Again, if any question is raised whether any particular plant or machinery is within the statement in force under s. 24 of the Act of 1925, and ought therefore to be included in the valuation of the hereditament concerned in the appeal, that question may with the written consent of all the parties appearing, be referred by the committee of justices or Recorder to a member of the panel appointed under that section whose award on the question will be final and conclusive (*r*).

The hearing may be adjourned from time to time ; and this power is not affected by the termination of the quarter sessions, or by the commencement of a new quarter sessions (*s*).

(*p*) Proviso (*b*). (*q*) *Vide* p. 271.

(*r*) S. 24 (7)–(9) ; rules as to procedure, etc., will be found in the Plant and Machinery (Valuation for Rating) Rules, 1927, St. R. & O. 1927, No. 479/L. 21. (*s*) See s. 32 (2), (7).

Powers of the tribunal in determining the appeal.—After hearing the appeal, the committee of justices or the Recorder has power either to confirm the valuation list, or to alter it in such a way as "to give effect to the contention of the appellant so far as that contention appears to the court to be well founded" (*t*). The court may not alter the list so as to give effect to any contention not actually covered by the grounds specified in the notice of appeal (*u*), or to any contention which his conduct in relation to the previous objection has precluded him from raising in the appeal, even though it is covered by the notice (*x*). But they may make any alteration in the list which seems to them necessary in order to give effect to the appellant's contention, wholly or in part; if the appellant is seeking a reduction of any figure of value inserted in the list for a hereditament owned or occupied by himself, and that contention is well-founded, the court may reduce that figure; and they may also increase, *e.g.* the gross, or the net annual value, if they find this necessary in order to establish a correct ratio with the net annual, or the rateable value as so reduced. If, on the other hand, the appellant (being, say, a rating authority, or a ratepayer appealing in regard to the assessment of a third party) contends that any figure of value in the list should be increased, the court may increase that figure, as well as the other figures relating to the same hereditament if this is found to be necessary for the reason just mentioned (*y*).

(*t*) S. 31 (4).

(*u*) *Vide supra*, p. 257; as to the contentions an appellant may raise, *vide supra*, pp. 255, 256.

(*x*) *Gateshead Union* v. *Redheugh Colliery*, [1925] A. C. 309, *supra*, p. 256.

(*y*) See Chap. V: "The values to be entered," p. 118, *supra*.

There appears to be no power to quash a valuation list as a whole on the ground of invalidity or inequality (*z*); but any individual assessment may be corrected, which has been specifically challenged on the ground of inequality (*a*) or of the absence of independent valuation (*b*). Of course a figure in the valuation list can only be increased (whatever the ground of increase) if the occupier of the hereditament has received (or given) notice of appeal, as well as notice of the previous objection (*c*).

Costs.—The committee or Recorder has power to order the unsuccessful party to pay costs (*d*), and such an order may be made against an appellant even if he does not prosecute his appeal (*e*), or against an assessment committee, if no one appears as respondent (*f*). But an appellant may not be ordered to pay the costs of more than one of the respondents (*g*); if the appellant is successful, his costs may be apportioned among the respondents (*g*). An appellant, though successful, may be ordered to pay the costs due to a frivolous or vexatious ground of appeal (*h*). The occupier (where

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(*z*) As was done in *Stirk* v. *Halifax Assessment Committee*, [1922] 1 K. B. 264, *supra*, p. 115.

(*a*) *Double* v. *Southampton Assessment Committee*, [1922] 2 K. B. 213; *Hunter* v. *Swindon Assessment Committee*, *ibid.*, 630; *supra*, pp. 116–118.

(*b*) See *Stirk's* case, *supra*.

(*c*) *Vide supra*, pp. 254, 257; and cf. *R.* v. *Recorder of Bristol*, [1913] 3 K. B. 104, *supra*, p. 236.

(*d*) S. 32 (3); Quarter Sessions Act, 1849, 12 & 13 Vict. c. 45, s. 5.

(*e*) Act of 1849, s. 6.

(*f*) Act of 1925, s. 32 (3).

(*g*) S. 31 (2), proviso (*a*).

(*h*) Act of 1849, s. 4; as to costs where the "case" is inadequately stated, see Assessment Appeals Rules, 1927, St. R. & O. 1927, No. 416, rule 8 (*d*).

the appellant is the county valuation committee or a local authority) (which includes a rating authority) cannot be ordered to pay costs if he does not appear as a respondent but gives notice that he desires to be called as a witness (*i*).

The fees of a second counsel, or of more than two expert witnesses, can only be allowed on taxation if the court so orders immediately after the conclusion of the hearing (*k*).

The costs are taxed by the Clerk of the Peace, on any date he may fix (*l*), and are regulated by a scale, unless this is varied by the court at the hearing, or by the clerk (*m*) ; the taxation is open to review on objection, both by the clerk and by the court itself (*n*).

Special case stated by quarter sessions.—Any party to the appeal (*o*) may require a special case to be stated for the High Court on a point of law ; and the committee or Recorder must state the case (unless it is of opinion that the application is frivolous), though they may impose conditions as to costs (*p*), The application must be made in writing (to the clerk of the court) within twenty-one days after the date of the decision (*q*) ; in calculating the time, the date of the decision must

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(*i*) Act of 1925, s. 31 (2), proviso (*b*) ; *vide supra*, p. 259.

(*k*) Assessment Appeals Rules, 1927, Schedule, Part I, rules 1 (3), 3 (2).

(*l*) Assessment Appeals Rules, rule 10.

(*m*) Rule 11 ; Schedule, Part I.

(*n*) Rule 12. (*o*) *Vide supra*, pp. 255, 258.

(*p*) S. 31 (5). The committee or Recorder cannot refuse a case on the ground that no point of law arises, unless they are of opinion that the application is frivolous ; cf. *R.* v. *Bridge* (1890), 24 Q. B. D. 609.

(*q*) S. 31 (5) ; it will be well that the application should state that the applicant is dissatisfied with the decision as being erroneous in point of law, but such a statement is not essential, if it appears from what took place that there is a point of law in dispute ; cf. *R.* v. *Newton* (1879), 43 J. P. 351.

be excluded and that of the application included. There is no provision requiring service of the application on any other party. Any refusal to comply with such an application can probably be challenged by *mandamus ;* and a decision that the application is frivolous appears to be open to review by that procedure (*r*).

A case cannot be stated upon an objection to the competence of the appeal, if the committee or the Recorder have overruled the objection, until that tribunal has heard and decided the appeal (*s*) ; but if the objection has been upheld, and the appeal thus disposed of, the statement of a special case may be required, because that decision constitutes the determination of the appeal. Once an appeal has been determined, it is no objection to the stating of a special case that the decision of the High Court on the point of law raised may necessitate a rehearing and a fresh determination, for the High Court may remit the order and the case stated for that purpose (*t*).

A special case stated by the committee or Recorder must be filed at the Crown Office before the expiration of six months after the order of the committee or Recorder on the appeal ; the time will only be extended with leave, on special circumstances being shown (*u*).

A case so stated is deemed an appeal, and is heard and determined by a Divisional Court of the King's Bench Division (*x*) ; leave is required for an appeal to

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(*r*) Cf. *R.* v. *Pollard* (1866), 14 L. T. 599.

(*s*) *R.* v. *Sutton Coldfield Overseers* (1874), L. R. 9 Q. B. 153.

(*t*) S. C. of Judicature Act, 1925 (15 & 16 Geo. 5, c. 49) s. 25 (2) ; see *Port of London Authority* v. *Orsett Union*, [1920] A. C. 273.

(*u*) Crown Office Rules, 1906, rule 25 ; as to recognisances, etc., see rules 24, 26 ; cf. *Leyton U. D. C.* v. *Wilkinson*, [1927] 1 K. B. 315, *infra*, p. 307.

(*x*) Judicature Act, 1925, s. 25 (1), s. 63 (1) ; see also s. 17.

the Court of Appeal (*y*). Notice of appeal must be given within fourteen days of the judgment (*z*).

The Divisional Court and Court of Appeal may draw any inference of fact or give any judgment or make any order, that might have been drawn or given or made by the committee or Recorder, or may remit the appeal for rehearing as above stated, or may remit the case for restatement (*a*). They have full power over costs, subject it would seem to any conditions imposed by the committee or Recorder in complying with the application to state a case (*b*).

The order of the appellate court may be enrolled before the committee or Recorder upon an application of any party interested, made at any time when they are sitting (*c*); and upon such enrolment, the committee or Recorder must give effect to the order (*d*).

An appeal from the decision of the Court of Appeal lies to the House of Lords.

Special case stated by consent.—At any time after notice of appeal has been given, and even without any hearing before the committee or Recorder, a special case may be stated by consent of the parties to an appeal (*e*); an order of a judge of the High Court is

(*y*) *Ibid.*, s. 31 (i) (*f*).

(*z*) R. S. C. 1883, O. LVIII, rule 15.

(*a*) Judicature Act, 1925, s. 25 (2).

(*b*) *Ibid.*, s. 25 (3); Rating & Valuation Act, 1925, s. 31 (5); cf. *In re Knight* and *Tabernacle Building Society*, [1892] 2 Q. B. 613.

(*c*) S. 31 (7), read with s. 32 (1), (2), (7); these enactments appear to supersede, as far as special cases of this kind are concerned, the provisions of the Judicature Act, 1925, s. 25 (4). It is clear that no respite is necessary.

(*d*) Rating and Valuation Act, 1925, s. 31 (7).

(*e*) See pp. 255, 258, *supra*; the consent of an assessment committee, rating authority or county valuation committee, which is a party, may be given by any officer authorised to carry on the proceedings on their behalf, Rating and Valuation Act, 1925, s. 31 (7).

required for this purpose (*f*). Such a special case is also heard by a Divisional Court, and an appeal lies to the Court of Appeal (*g*), and thence to the House of Lords.

The appellate court has full power over costs (*h*). The judgment must be enrolled before the committee or Recorder (*i*).

Certiorari : mandamus : prohibition.—If the committee or Recorder make an order in an appeal relating to a valuation list, and it is sought to quash the order on the ground of want of jurisdiction (*k*), or of the disqualification of a justice who sat at the hearing (*l*), and proceedings for a *certiorari* are taken, these must be commenced (by motion in a Divisional Court or in vacation or when there is no sitting of a Divisional Court by application to a Judge in Chambers (*m*)) within three months after the decision complained of (*n*).

If the committee or Recorder decline to entertain an appeal of this kind, their power and duty to do so may be tested and enforced by proceedings in the High Court for an order of *mandamus* to hear and determine

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(*f*) Quarter Sessions Act, 1849, 12 & 13 Vict. c. 45, s. 11.

(*g*) No leave appears to be required, for s. 25 (1) of the Judicature Act, 1925, excepts a case so stated, and therefore s. 31 (1) (*f*) of that Act has no application. Notice of appeal must, however, be given within fourteen days, *vide supra*, p. 269, note (*z*).

(*h*) Act of 1849, s. 11.

(*i*) Rating and Valuation Act, 1925, s. 31 (7); *vide supra*, p. 269, note (*c*).

(*k*) See *e.g. R.* v. *Kingston-upon-Hull* (*Recorder*), [1924] 1 K. B. 630.

(*l*) See observations on this matter, *supra*, p. 261; and cf. *R.* v. *Cumberland JJ.* (1888), 58 L. T. 491.

(*m*) Crown Office Rules, 1906, rules 20 *sqq.*

(*n*) Rating and Valuation Act, 1925, s. 31 (8), which amends rule 21 of the Crown Office Rules, in this respect.

the appeal according to law (*o*). If the committee or Recorder propose to entertain such an appeal, and their jurisdiction is contested, they may be prevented by an order of prohibition obtained in the High Court (*p*).

Arbitration.—When the time for giving notice of intention to appear as respondents to an appeal relating to the valuation list has expired (*q*), the appellant and all parties who have given such notice, may agree in writing to refer the whole matter in dispute, or some particular question or issue to an arbitrator, or to appoint a person to make a valuation (*r*).

In the case of a reference to arbitration, the arbitrator is to be appointed by the parties, or in default of their agreement, by the President of the Surveyors Institution (*s*). The arbitrator's proceedings are regulated by the Arbitration Act, 1889 (*t*) ; the costs of and incidental to the hearing and award are in his discretion, but will be taxed, if necessary, by the Clerk of the Peace (*u*). The parties may agree in writing, before entering on the reference, that the arbitrator's award shall be final and conclusive (*x*) ; if there has not been such an agreement, the arbitrator may state any question of law

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(*o*) Cf. *R.* v. *Denbighshire JJ.* (1885), 15 Q. B. D. 451, and see Crown Office Rules, 1906, rules 49 *sqq.*

(*p*) *Ibid.*, rules 70, 71 ; Cf. *R.* v. *Kingston-upon-Hull* (*Recorder*), *supra.*

(*q*) *Vide supra*, p. 258.

(*r*) Act of 1925, s. 31 (6) ; but if any question as to the inclusion of any particular plant or machinery in the valuation is to be referred, it would appear that that can only be done according to the provisions of s. 24 (7)–(9), *vide supra*, p. 264.

(*s*) 5th Sched., Part II, rule 1.

(*t*) 52 & 53 Vict. c. 49.

(*u*) Act of 1925, 5th Sched., Part II, rule 3 ; Assessment Appeals Rules, rule 10 ; see also Schedule thereto, Part I, rules 1 (3), 3 (2).

(*x*) 5th Sched., Part II, rule 2.

arising in the course of a reference in the form of a special case for the opinion of the High Court, and make his award in the light of that opinion; and may be directed to state such a case (*y*). He may also, after the hearing, state his award as to the whole or part thereof in the form of a special case for the opinion of the High Court (*z*). Such a special case is heard by a single judge; an appeal lies to the Court of Appeal without leave (*a*), and thence to the House of Lords. The special case must be such that the order of the appellate court will decide the case finally (*b*).

An award of an arbitrator, or the order of the appellate court, if the award is stated in the form of a special case, must be enrolled before the committee or Recorder, who will make an order giving effect to it, and thus dispose of the appeal (*c*).

Valuation by a valuer.—An agreement entered into between the appellant and respondents as described above (*d*) may, (instead of a reference to arbitration) be an agreement to appoint a person to value a hereditament concerned in the appeal, or any part of such a

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(*y*) Act of 1889, s. 19; a special case of this kind is heard by a Divisional Court; there is no appeal beyond the High Court, *In re Knight and Tabernacle Building Society*, [1892] 2 Q. B. 613; but in some circumstances an award founded on the opinion obtained may be set aside, *British Westinghouse, etc.* v. *Underground Electric, etc.*, [1912] A. C. 673; see also *Cogstad* v. *H. Newsum, Ltd.*, [1921] 2 A. C. 528.

(*z*) S. 7 (*b*).

(*a*) Judicature Act, 1925, s. 31 (*i*) (v); *In re Kirkleatham Local Board and Stockton Water Board*, [1893] 1 Q. B. 375. The appellate court has power to deal with the costs of the appeal, Act of 1889, s. 20; *In re Gonty and M. S. & L. Rail. Co.*, [1896] 2 Q. B. 439.

(*b*) *Cogstad* v. *Newsum, supra.*

(*c*) Rating and Valuation Act, 1925, s. 31 (7); see p. 269, *supra*, note (*c*).

(*d*) P. 271.

hereditament (*e*). The parties if they make an agreement of this kind must accept the valuation as binding for the purposes of the appeal; and the costs of and incidental to the valuation will be treated as part of the costs of the appeal (*f*). No particular procedure is laid down, but the Arbitration Act, 1889, does not apply, and the valuer appointed has no power to state a special case; either the valuer, or the parties, must report the result of the valuation to the committee or Recorder, and although the parties must not challenge it, there appears to be no obligation upon the committee or Recorder to accept it unless they think fit to do so; they must give their own decision on the appeal.

Alteration of valuation list.—If the decision of the committee or Recorder on the appeal involves an alteration of the valuation list, the Clerk of the Peace must send to the county valuation committee and to the assessment committee a statement in writing of the decision, specifying the alteration to be made (*g*). The assessment committee must alter the valuation list and totals accordingly (*h*) and record the alteration in their minutes (*i*). A similar procedure is to be followed after the decision of the superior courts on a special case stated by the committee or Recorder, or the decision on a special case stated by consent, or the award of the

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(*e*) S. 31 (6); such an agreement has nothing to do with the appointment of a valuer in the course of an appeal by the committee or Recorder under s. 33, described at pp. 263, 264, *supra*.

(*f*) S. 31 (6) as to the power of the committee or Recorder over costs, and as to taxation, *vide supra*, p. 266.

(*g*) S. 31 (10).

(*h*) S. 35; Form of Valuation List Rules, 1926, St. R. & O. 1926, No. 796, rules 6–10, *vide supra*, pp. 240, 244.

(*i*) Rule 8.

arbitrator, or the decision of the superior courts on an award stated in the form of a special case, has been enrolled (*k*), if an alteration in the valuation list is involved by the decision or award.

If the amount of any rate is reduced or increased in consequence of the alteration, any amount overpaid is to be repaid or allowed, and any amount underpaid may be recovered as arrears (*l*).

(*k*) S. 31 (7).

(*l*) S. 36 (2).

CHAPTER XVI

APPEALS AGAINST RATES

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The right of appeal.—Apart from appeals relating to the valuation list, and brought under the Rating and Valuation Act, 1925 (*a*), there still exists a right of appeal against the rates themselves, which is created by earlier statutes. During the transitional period before the first new valuation made under the Act of 1925 comes into force, the older right of appeal remains unaffected by that Act ; and an appeal may be brought (on grounds applicable to the particular rate in question) against a general rate made in a rural parish (*b*), or against a special rate (*c*), or against a poor rate, a general district rate, or a rate under a local act made in an urban parish (*d*), so long as these rates are

(*a*) See Chap. XV.

(*b*) Under the Act of 1925, s. 2 (2), *supra*, p. 4.

(*c*) S. 3 (1), see p. 16, *supra*.

(*d*) These continue to be made until the date of the first new valuation, s. 2 (1), see p. 6, *supra*.

made in accordance with the valuation lists made under the Union Assessment Acts (*e*).

As soon as the first new valuation lists made under that Act have come into force (*f*), however, the right of appeal under the earlier statutes against a general (*g*) or a special rate (*h*) made in a rural parish, and against a general rate made in an urban parish (*i*), is limited substantially (*k*). No appeal may be brought against a rate made in accordance with a valuation list made under the Act of 1925 in respect of any matter which might be rectified by means of an objection relating to that list (*l*), or by means of a proposal for its amendment (*m*); the result is that no appeal against a rate may be brought on a question of value; any such question can only be raised by an objection, proposal, or appeal relating to the valuation list (*n*).

Appeals in the transitional period.—The previous enactments relating to appeals against a poor rate are specifically applied to general rates, so far as not repealed by the Act of 1925 (*o*). Consequently the old poor-rate procedure applies (speaking generally) to appeals against general rates in rural parishes (*p*), as also against special rates (*q*), made before the first new valuation comes into force; and also to poor rates made in urban parishes in that transitional period, and

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(*e*) *Vide supra*, p. 104.
(*f*) *Supra*, p. 106.
(*g*) *Supra*, p. 4.
(*h*) *Supra*, p. 16.
(*i*) *Supra*, p. 3.
(*k*) S. 14.

(*l*) See Chap. XIII: objection may be followed by an appeal relating to the list, s. 31 (1), as to which see Chap. XV.

(*m*) See Chap. XIV.

(*n*) The grounds which remain open for appeals against rates are indicated, *infra*, pp. 282–285.

(*o*) S. 2 (3).

(*p*) S. 2 (2), *vide supra*, p. 4.

(*q*) S. 3 (2), *vide supra*, p. 10.

to local rates in those parishes to which that procedure is applied by the local Acts under which they are made (*r*).

Except that overseers and guardians have disappeared as respondents, none of the enactments affecting the appeal against a poor rate is repealed until the date of the first new valuation (*s*); s. 1 of the Union Assessment Committee Act, 1864, is kept in force until that date, and is then repealed; so also is s. 6 of the Parochial Assessments Act, 1836 (*t*). The result is that appeals against the rates above mentioned during the transitional period may be brought to quarter sessions on any ground (*u*), and to special sessions on questions of value (*x*), subject to the conditions precedent of giving notice of objection to the assessment committee and of failure to obtain from them such relief as the objector deems just (*y*); but notices of objection and appeal have to be given to other bodies instead of the overseers (*z*); and the assessment committee need not obtain the consent of the guardians in order to appear as respondents to the appeal (*a*).

The right of appeal and the conditions of its exercise during this period are therefore unchanged, save only

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(*r*) As to urban rates, *vide supra*, p. 6.

(*s*) S. 69 (4), and the Repeals, etc., Order, 1927, made thereunder, St. R. & O. 1927, No. 90, art. 5, and Schedule, Parts I, III.

(*t*) 27 & 28 Vict. c. 39; 6 & 7 Will. 4, c. 96.

(*u*) Poor Relief Act, 1601, 43 Eliz. c. 2, ss. 5, 7; 1743, 17 Geo. 2, c. 38, ss. 4–6.

(*x*) Parochial Assessments Act, 1836, s. 6; there is also a right of appeal by either party from the decision of special sessions to quarter sessions.

(*y*) Union Assessment Act, 1864, s. 1, *vide infra*, p. 278.

(*z*) The Act of 1925, s. 62, abolished the office of overseer as from April 1, 1927.

(*a*) The words in s. 2 of the Act of 1864 which made this necessary are repealed as from April 1, 1927; Repeals, etc., Order, Schedule, Part I.

as regards the respondents and the notices to be given to them. It is proposed here to deal only with these matters ; no useful purpose would be served by giving a new account of a familiar procedure which is to expire so soon (*b*).

The right of appeal against general district rates and the procedure in such appeals, remain unaltered, so long as these rates continue to be made (*c*); but such appeals can be brought only upon limited grounds, the chief of which is the non-allowance of the three-fourths exemption for land covered with water and certain other classes of property (*d*).

Respondents : Notices of objection and appeal.—The assessment committee appointed under the Act of 1925, for the assessment area (*e*) containing the parish in which the hereditament concerned in the appeal is situate, possesses during the transitional period the powers and duties in relation to valuation lists of an assessment committee under the Union Assessment Acts (*f*) ; notice of objection against the list must therefore be given to the newly appointed assessment committee ; it is they who will hear and determine the objection ; and they are entitled to twenty-one days' notice of appeal before the first day of the quarter or special sessions to which the appeal is brought (*g*). In

(*b*) Reference may be made to Ryde on Rating, 5th edn. 1925, Chaps. XXVIII–XXX.

(*c*) Public Health Act, 1875, 38 & 39 Vict. c. 55, s. 269 ; see notes to that section in Lumley's Public Health.

(*d*) S. 211 (i) (*b*) : several of the decisions cited, *supra*, p. 103, were given in such appeals, see *e.g. Smith's Dock* v. *Tynemouth Corporation*, [1908] 1 K. B. 948.

(*e*) *Supra*, p. 108.

(*f*) Act of 1925, s. 69 (3).

(*g*) Union Assessment Committee Act, 1864, s. 1. As to service, see Act of 1925, s. 59 (3).

calculating this period, the day of service is included, and the first day of the sessions excluded (*h*).

The duties and powers of overseers in relation to valuation lists during the transitional period are transferred to the rating authority of the urban or rural rating area (*i*) ; and that authority seems to be entitled to receive notice of any objection against the valuation list in respect of a hereditament situate in any parish in its area, such as had formerly to be served on the overseers, the urban authority, or the parish council (*k*).

The overseers, or one of the other bodies just mentioned, were also entitled to fourteen clear days' notice of appeal before the first day of the quarter sessions (*l*) (and to seven days' notice before the first day of the special sessions (*m*)) to which an appeal against the rate was brought (*m*). If the hereditament affected is in an urban parish, such a notice must now be served on the clerk of the urban authority (*n*), who are also the rating authority (*o*). If the hereditament is situate in a rural parish having a parish council, notice of appeal

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(*h*) *R.* v. *West Riding JJ.* (1833), 4 B. & Ad. 685 ; *R.* v. *Goodenough* (1835), 2 Ad. & E. 463.

(*i*) S. 69 (3) ; s. 1 (1). The statement in the text affords, perhaps, the simplest solution of the difficulties of reading consistently, s. 62 (3), s. 69 (3), the Overseers Order, 1927, St. R. & O. 1927, No. 55, arts. 5 (3), 14, 19, and 20, and the Repeals, etc., Order, 1927, St. R. & O. 1927, No. 90, to art. 5 and Schedule, Part I, see note (*p*), *infra*.

(*k*) U. A. C. Act, 1862, s. 18 ; 1864, s. 1.

(*l*) Poor Relief Act, 1743, 17 Geo. 2, c. 38, s. 4 ; Poor Rate Act, 1801, 41 Geo. 3, c. 23, s. 4 ; Quarter Sessions Act, 1849, 12 & 13 Vict. c. 45, s. 1.

(*m*) Parochial Assessments Act, 1836, s. 6.

(*n*) Overseers Order, 1927, arts. 14 (1), 20 (1) ; but cf. note (*p*), *infra*. S. 69 (3) of the Act of 1925 does not apply to such a notice, which is not " in relation to valuation lists ; " and s. 1 (2) makes no reference to appeals. As to service, see Act of 1925, s. 59 (3).

(*o*) S. 1 (1) ; *infra*, p. 107

must be served on the parish council, by serving their clerk (*p*). If it is situate in a rural parish which has not a parish council, and in which an order under s. 19 (10) of the Local Government Act, 1894, transferring the right from the overseers to the parish meeting was in force at the time of the passing of the Act of 1925, notice of appeal must be served on the chairman of the parish meeting (*q*). In a rural parish which has not a parish council, and in which no such order was in force, the rating authority (that is, the rural district council) now has the right to receive a notice of appeal (*r*). Where the hereditament is in such a parish as last mentioned, the rural district council should be served by serving their clerk; and indeed in view of the unfortunately obscure state in which this matter has been left by the sections and orders referred to in the notes, it may be safer to serve the rural district council in every rural parish, rather than run any risk of the appeal failing for want of proper service (*s*).

(*p*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*c*) (i), which transferred the right to receive the notice from overseers to parish councils (see *R.* v. *Tewkesbury JJ.*, [1903] 1 K. B. 39), is repealed as from April 1, 1927, by the Repeals, etc., Order, 1927, made Feb. 19, 1927; but the Overseers Order, 1927, made Feb. 7, 1927, by art. 20 (2) purports to preserve that transfer in spite of the abolition of the office of overseer, see s. 62 (1) of the Act of 1925. Sub-s. (3) of s. 62 seems to afford no help on this point.

(*q*) Either under art. 14 (3) of the Overseers Order, 1927, or under an order made under s. 19 (10) of the Act of 1894; s. 19 (10) is not repealed.

(*r*) Act of 1925, s. 1 (1); s. 62 (3); Overseers Order, 1927, art. 5 (3).

(*s*) The puzzle afforded by the sections and orders referred to in note (*p*) seems hardly capable of a satisfactory solution; but the view that the rating authority were not entitled to notice of appeal was taken by the Surrey Q. S. (Mr. Whiteley, K.C, Chairman) in *Westminster Bank, Ltd.* v. *Surrey Mid-E. Assessment Committee*, Rating and Income Tax newsp., July 9, 1927.

If the appeal relates to the under-assessment or omission from the rate of a hereditament occupied by a person other than the appellant, that person is entitled to a notice of the same length as that given to the overseers (*t*).

In calculating the period of fourteen clear days both the day of the service, and the first day of the quarter sessions are to be excluded (*u*).

If no notice of appeal direct to quarter sessions has been given or the notice has not been given in time to allow the requisite number of days, an appeal to quarter sessions may nevertheless be entered (on an application made *ex parte*) on the first day of the appropriate quarter sessions, and respited to the next following quarter sessions (*x*).

The notice must be in writing signed by the appellant or his attorney, and must state the grounds of the appeal (*y*). More than one appellant, having the same grievance against the same rate, may join in giving a single notice of appeal (*z*).

(*t*) *Supra*, p. 279, notes (*l*), (*m*).

(*u*) *R.* v. *Herefordshire JJ.* (1820), 3 B. & Ald. 581 ; *R.* v. *Shropshire JJ.* (1838), 8 Ad. & E. 173.

(*x*) Poor Relief Act, 1743, 17 Geo. 2, c. 38, s. 4 ; applied as regards notice to the body entitled thereto in place of the overseers, *R.* v. *de Grey*, [1900] 1 Q. B. 521 ; as regards notice to a third party, *R.* v. *Eyre* (1856), 6 E. & B. 992 ; as regards notice to the assessment committee, *Denaby Overseers* v. *Denaby and Cadeby Collieries, Ltd.*, [1909] A. C. 247. If no notice has been served before the first quarter sessions, the requisite notice must be served in time before the ensuing sessions ; but if notice has previously been served, though not in time for the quarter sessions, the notice need not be served again ; *Redheugh Colliery, Ltd.* v. *Gateshead Assessment Committee*, [1924] 1 K. B. 369.

(*y*) Poor Rate Act, 1801, ss. 4, 6 ; Act of 1849, s. 1 ; as to amendment, see below.

(*z*) *R.* v. *White* (1792), 4 T. R. 771, *R.* v. *Sussex JJ.* (1812), 15 East, 206.

The giving of a notice of appeal does not excuse payment of rates, but, pending the decision, no greater amount can be recovered than was payable in respect of the same hereditament under the last effective rate (*a*).

Appeals against rates made after the first new valuation.—Against any general rate in an urban or rural parish, made after the first new valuation list under the Act of 1925 has come into force (*b*), and against any special rate so made, an appeal cannot be brought so as to raise any question of value, or any question whether a hereditament should or should not be included in the valuation list (*c*). An appeal against such a rate may, however, be brought on the ground that the person rated is not in rateable occupation of the hereditament in respect of which he is assessed (*d*), whether because the rateable occupier is some other person (*e*), or because (though the hereditament is rightly included in the valuation list and a rateable value is rightly there shown), his occupation does not amount to a rateable occupation (*f*) during the period for which he is sought to be rated (*g*). Again, if the owner of the hereditament has been rated instead of the occupier, and the circumstances do not admit of his being so rated, under the Act of 1925 (*h*), or under any local act continued in force (*i*), the owner may

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(*a*) Act of 1801, s. (2).

(*b*) Ss. 19, 20, *vide supra*, p. 106.

(*c*) This is the effect of s. 14, *vide supra*, p. 276.

(*d*) Cf. *Smith* v. *Lambeth Assessment Committee* (1882), 9 Q. B. D. 585; 10 Q. B. D. 327.

(*e*) See pp. 35 *sqq.*, *supra*.

(*f*) See Chap. II, *supra*; as to exemptions, see below.

(*g*) See ss. 4 (4), 5 (1) (*c*), *supra*, pp. 9, 15.

(*h*) S. 11 (1), s. 23, *vide supra*, pp. 38, 70.

(*i*) See s. 11 (10), *supra*, p. 70.

appeal against the rate. If a hereditament included in the valuation list is omitted from the rate, but is in rateable occupation, and ought therefore to have been rated, the omission will afford to a third party (who is rated in respect of some other hereditament), a ground of appeal against the rate; but if a hereditament is omitted from the rate, because it is not shown in the valuation list, the third party can get the omission rectified by means of a proceeding relating to the list, and an appeal against the rate is not open to him (*k*).

Exemptions which involve a reduction of rateable value (*l*) can be obtained by proceedings relating to the list; and cannot therefore be claimed in an appeal against the rate (*m*). But exemptions like those described as "differential rating" (*n*), or like those which apply to special rates (*o*), are not indicated in the valuation list; and a rate which does not give effect to them, may be appealed against on that ground. On the other hand, if, contrary to the statutory directions (*p*), a rateable value is shown in the valuation list for premises which are exempt because they are in the occupation of servants of the Crown for purposes of the Crown (*q*), or because they are churches or chapels or non-provided schools, or are within the Scientific Societies Act, 1843, or are otherwise totally exempt

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(*k*) S. 14.

(*l*) *E.g.* the partial exemptions given by s. 22 (1) (*c*) and Part II of the 2nd Sched., *vide supra*, pp. 98-103, or by local Acts which apply an exceptional principle of valuation, see s. 64 (1) (*a*), *supra*, pp. 91–97.

(*m*) S. 14.

(*n*) S. 64 (1) (*b*), *supra*, p. 97.

(*o*) S. 3 (2), *supra*, p. 103.

(*p*) See Form of Valuation List Rules, 1926, St. R. & O. 1926. No. 796, rule 7, *columns* 7–11, proviso.

(*q*) *Supra*, p. 81.

from rates (*r*), the omission of the rateable value so shown on the list can be obtained by proceedings with relation to the list ; and it would appear that the exemption cannot be claimed by appeal against the rate (*s*). Of course if no rateable value is shown for such a hereditament in the valuation list, and it is nevertheless included in the rate, an appeal will lie against the rate (*t*).

If the value shown in the rate differs from that appearing for the same hereditament in the valuation list as in force (*t*), that is a matter which clearly cannot be put right by proceedings against the list, and affords ground of appeal against the rate. So may an amendment of a rate made on the ground that a newly erected hereditament has come into occupation, on the ground of change of occupation (*u*), or on the ground that any property previously rated as a single hereditament has become liable to be rated in parts, (including any apportionment of rateable value made in the rate in consequence of such a change as last mentioned (*x*)). If the rate follows a list which is altogether invalid (*y*), that will form a ground of appeal against the rate ; but any inequality as between one hereditament and another can be set right only by proceedings in relation to the list, and not by appeal against the rate (*z*).

(*r*) *Supra*, pp. 84–89. (*s*) S. 14 ; but see also p. 303, *infra*.

(*t*) The valuation list is made conclusive of value by s. 20 (1), *supra*, p. 106 ; as to the effect of amendment of the list, see ss. 35, 37 (10), *supra*, pp. 273, 251.

(*u*) S. 5 (1) (*c*) (i), (ii), *supra*, p. 15.

(*x*) S. 5 (1) (*c*) (iii), *supra*, p. 15 ; but if the apportionment is sought to be made in the valuation list by means of a proposal, it must be challenged by means of an objection under s. 37 (4), *supra*, p. 248.

(*y*) *E.g.* because it was not prepared by valuation of each hereditament, as in *Stirk* v. *Halifax Assessment Committee*, [1922] 1 K. B. 264 ; *vide supra*, p. 115, and Chap. XIII.

(*z*) See s. 14.

Any omission of the formalities required in making a rate (*a*) is ground of appeal against the rate; as also is the objection that the rate is made for purposes for which the rating authority is not entitled to levy the rate.

Many of the above objections may also be raised in resisting proceedings for the recovery of the rate (*b*); but this is not true of all of them. For instance, an objection to the validity of the valuation list cannot be taken in such proceedings (*c*), nor an objection to the competence of the authority to levy the rate for the purpose for which it has been raised (*d*).

Conditions of appeal: Notice.—The appeal against a rate is brought to the Recorder if the hereditament to which the appeal relates is situate in a quarter sessions borough, and, if not, to the quarter sessions for the county, riding, or division (*e*); it must be brought to the next practicable quarter sessions, after the rate is made (*f*), which gives rise to the grievance; that is to the next quarter sessions before which there is time to give the fourteen clear days notice of appeal required, together with a reasonable time to decide whether notice shall be given, and if so, on what grounds (*g*). In an urban parish, the urban

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(*a*) *Supra*, pp. 10–13. (*b*) *Vide infra*, pp. 298–305.

(*c*) *Shillito* v. *Hinchliffe*, [1922] 2 K. B. 236, *infra*, p. 300.

(*d*) See *e.g. Luton L. B.* v. *Davis* (1860), 2 E. & E. 678, *infra*, p. 299.

(*e*) Poor Relief Act, 1601, 43 Eliz. c. 2, ss. 5, 7; 1743, 17 Geo. 2, c. 38, ss. 4–6. If the rating area for which the rate is made happens to extend into more than one jurisdiction, possibly the appeal may be brought in either; but it seems doubtful whether s. 27 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), which enacts a similar rule in the case of divided unions, is still applicable to these appeals.

(*f*) Act of 1925, s. 4 (1), *supra*, p. 11.

(*g*) *Liverpool United Gas Co.* v. *Everton Overseers* (1871), L. R. 6 C. P. 414; *R.* v. *Surrey JJ.* (1880), 6 Q. B. D. 100.

authority is entitled to notice; the question who is entitled in a rural parish has been considered above (*h*); notice must be given to any third party, the omission of whose hereditament from rating is complained of, or whose hereditament is alleged not to be rated in accordance with the valuation list (*i*).

Hearing of appeal: powers of quarter sessions.—The quarter sessions (or Recorder) have power to respite an appeal from session to session (*k*), or to the next session but one (*l*), and of course to adjourn the hearing to any day in the duration of any existing quarter sessions; as well as generally to regulate their own practice (*m*). They may allow the grounds in the notice of appeal to be amended, on terms if necessary (*n*).

The rating authority must produce the rate-book at the hearing (*o*).

The court may amend the rate so as to give effect to any of the lawful grounds of appeal which is raised

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(*h*) *Supra*, pp. 279, 280; the same sections and Orders are applicable on this point after the date of the first new valuation, as before. As to length of notice, and entry without notice, *vide supra*, p. 281, notes (*u*), (*x*). No notice to the Assessment Committee is required.

(*i*) As to the form and effect of the notice, see pp. 281, 282, *supra*.

(*k*) *Redheugh Colliery, Ltd.* v. *Gateshead Assessment Committee*, *infra* If a respondent applies for a respite, he does not thereby waive any technical objection to the appeal; *Rhondda Valley Breweries Co.* v. *Pontypridd Union*, [1909] 1 K. B. 652.

(*l*) Cf. *R.* v. *Westmoreland JJ.* (1868), L. R. 3 Q. B. 457.

(*m*) Subject to the Commission of the Peace under which they sit, to the provisions of the Quarter Sessions Act, 1849, and in the case of a Recorder to those of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 162–168. The enactments in s. 31–36 of the Act of 1925, and the rules made thereunder, as to appeals relating to valuation lists, have no application to appeals against rates.

(*n*) Act of 1849, s. 3.

(*o*) Poor Relief Act, 1743, s. 13, Act of 1925, s. 62 (3). The "rate book" under the Act of 1925 is a compound of several volumes, see pp. 12–14, *supra*.

in the notice, or may quash the rate if they are of opinion that it is necessary to do so in order to give relief on any such ground (*p*). They cannot, of course, make any amendment which would have the effect of making the rate differ from the valuation list as in force in any matter relating to value or indeed in any matter which can be put right by an objection, appeal, or proposal in relation to the list (*q*). It would appear, however, that if the valuation list to which the rate conforms is altogether invalid, the rate may be quashed (*r*).

If a rate is quashed, it may yet be collected, and the money credited to the next effective rate (*s*) ; if the rate is amended, only the reduced amount will be collected ; and any excess already paid will be repaid or allowed (*t*).

The court may order costs to be paid to the successful party (*u*), and may order the appellant (though he succeeds on the whole) to pay to the respondents the costs of any frivolous or vexatious ground of appeal (*x*). A rating authority which has received notice may be ordered to pay costs, even though it does not appear and resist the appeal (*y*).

Disqualification of justices.—A justice may not sit at county quarter sessions on an appeal against a rate made for any parish in which he is a ratepayer (*z*),

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(*p*) Act of 1743, s. 6 ; Poor Rate Act, 1801, s. 1 and proviso. As to admissible grounds of appeal against the rate, *vide supra*, pp. 282–285.

(*q*) See Act of 1925, s. 20, *supra*, p. 106, and s. 14, *supra*, p. 282.

(*r*) As was done in *Stirk* v. *Halifax Assessment Committee*, [1922] 1 K. B. 264.

(*s*) Poor Rate Act, 1801, s. 1, proviso.

(*t*) Ss. 3, 8.

(*u*) Quarter Sessions Act, 1849, s. 5.

(*x*) S. 4 ; as to costs of appeals not prosecuted, see s. 6.

(*y*) Cf. *R.* v. *Cambridge JJ.* (1834), 2 Ad. & E. 370.

(*z*) Justices Jurisdiction Act, 1742, 16 Geo. c. 18, s. 3, proviso (as to the meaning of " parish " in that act, see s. 68 (4) of the Act of 1925) ; *R.* v. *Essex JJ.* (1816), 5 M. & S. 513.

and therefore he may not sit on an appeal against a general rate made for an urban or rural rating area which includes such a parish (*a*), or against a special rate made for a part (of a rural rating area) in which he is a ratepayer (*b*). The fact that he is a ratepayer in some other parish in the same union does not disqualify him (*c*).

The question of disqualification of justices on the ground of pecuniary interest or other form of bias belongs to the general law (*d*); but it may be noted here that membership of a local authority which owns or occupies the hereditament concerned is not necessarily a disqualification for sitting on an appeal against a rate (*e*); and that, on the other hand, a justice may be disqualified from sitting, who is himself an appellant in an appeal raising similar points (*f*).

Special case stated by quarter sessions.—In an appeal against a rate, the court has power to state a special case on a point of law, but need not do so unless it thinks fit (*g*). The case must raise a point which, if the decision of the quarter sessions is upheld, will finally dispose of the appeal; and must not be stated on a preliminary point which will render a further

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(*a*) *Vide supra*, p. 4. (*b*) *Vide supra*, p. 16.

(*c*) Union Assessment Act, 1864 (27 & 28 Vict. c. 39), s. 6; Act of 1925, ss. 2 (3), 3 (2).

(*d*) See *Frome United Breweries Co., Ltd.* v. *Bath JJ.*, [1926] A. C. 586, *supra*, p. 261; and as to the justices' clerk, see *R.* v. *Essex JJ.*, [1927] W. N. 137.

(*e*) *R.* v. *Middlesex JJ.* (1908), 2 Konstam, 754; it is a disqualification for sitting on an appeal relating to a valuation list, Act of 1925, s. 31 (11), *supra*, p. 261.

(*f*) *R.* v. *Gt. Yarmouth JJ.* (1882), 8 Q. B. D. 525.

(*g*) *R.* v. *Walsall Overseers* (1878), 3 Q. B. D. 457, at p. 473. This power is derived from the Commission of the Peace; the provisions of s. 31 (5) of the Act of 1925 do not apply.

decision by the quarter sessions necessary in any event (*h*).

Such a special case must be filed at the Crown Office within six calendar months from the order of the quarter sessions, unless the Divisional Court gives special leave to extend the time (*i*). The case is heard by a Divisional Court of the King's Bench Division (*k*). That court may make any order that the quarter sessions might have made, or may remit the appeal for rehearing, or the case for re-statement (*l*); it has full power over costs incurred before itself, and at the quarter sessions (*m*). Leave is required for an appeal to the court of Appeal (*n*); that court in determining an appeal made to it has similar powers to the Divisional Court (*o*). A judge of either court is not disqualified from sitting by reason of his being one of a class of rate-payers affected (*p*). An appeal lies to the House of Lords from the order of the Court of Appeal.

The judgment of the appellate court has to be enrolled at the quarter sessions next or next but one after it is delivered; no respite is necessary while the special case is pending (*q*).

Special case under Baines' Act.—Apart from the above, a special case may also be stated by the consent

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(*h*) *R.* v. *Sutton Coldfield Overseers* (1874), L. R. 9 Q. B. 153, *supra*, p. 268.

(*i*) Crown Office Rules, 1906, Rule 25: as to recognisances, etc., see rules 24, 26, and cf. *Leyton U. D. C.* v. *Wilkinson*, [1927] 1 K. B. 315, *infra*, p. 307.

(*k*) S. C. of Judicature Act, 1925, 15 & 16 Geo. 5, c. 49, s. 25 (1), s. 63 (1). (*l*) S. 25 (2). (*m*) S. 25 (3).

(*n*) S. 31 (1) (*f*); notice of appeal must be given within fourteen days of the decision of the Divisional Court, R. S. C. 1883, O. LVIII, rule 15.

(*o*) S. 25 (2), (3).

(*p*) S. 17. (*q*) S. 25 (4).

of the parties, at any time after notice of appeal against a rate has been given to quarter sessions; no hearing at quarter sessions is necessary; but an order of a Judge in Chambers must be obtained before the case is stated; the parties must agree that judgment in conformity with the decision of the court and for such costs as the court shall adjudge, shall be entered at the quarter sessions next or next but one, after that decision has been given, and this agreement must appear in the case stated or in the Judge's order (*r*).

Such a case is, as a matter of practice, heard by a Divisional Court of the King's Bench Division, an appeal lies from the decision of that Court to the Court of Appeal (*s*), and leave is probably not necessary (*t*). A further appeal lies to the House of Lords.

The judgment of the appellate court must be enrolled at quarter sessions in accordance with the agreement above referred to. It does not appear that respite is necessary while the special case is pending (*u*).

Arbitration.—At any time after notice of appeal against a rate to quarter sessions has been given, the

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(*r*) Quarter Sessions Act, 1849 (Baines' Act) (12 & 13 Vict. c. 45), s. 11; *Peterborough Corporation* v. *Thurlby Overseers* (1882), 8 Q. B. D. 586. There have been cases, however, where any matters of fact which the decision of the court on the point of law might make it necessary to determine were left to an arbitrator by agreement included in the case, see *e.g. Swansea Harbour Trustees* v. *Swansea Union* (1905), 1 Konstam, 250.

(*s*) S. C. of Judicature Act, 1925, s. 27 (1); *Peterborough Corporation* v. *Wilsthorpe Overseers* (1883), 12 Q. B. D. 1; cf. *Lodge* v. *Huddersfield Corporation*, [1898] 1 Q. B. 859, and see next note.

(*t*) Cf. *Holborn Union* v. *Chertsey Union* (1885), 15 Q. B. D. 76; A case stated under the Act of 1849 is specifically excepted by s. 25 (1) of the S. C. of Judicature Act, 1925, and therefore does not appear to be within s. 31 (1) (*f*) or s. 63 (1). As to notice of appeal, see note (*n*), *supra*.

(*u*) See s. 25 (4).

parties may by consent, and by order of a Judge in Chambers, refer the appeal to arbitration (*x*); or the quarter sessions to which the appeal is brought may do so with consent of the parties (*y*). The agreement or order of reference should give the arbitrator power to award costs, and should provide for the amendment of the rate, and for repayment, in case the award renders either necessary. In other respects, the Arbitration Act, 1889, appears to afford all the directions required (*z*). Where the arbitration takes place by order of a judge, the award has the effect of a judgment of the quarter sessions and may be enrolled there (*a*); where it takes place by order of quarter sessions, the award may be entered at the next quarter sessions, or the next but one, as the judgment of that court, and shall then be binding as if given by the court (*b*). In either case, the appeal should probably be respited pending the arbitration (*c*).

(*x*) Quarter Sessions Act, 1849, s. 12; as to the failure of a reference see s. 14.

(*y*) S. 13; see s. 14.

(*z*) 52 & 53 Vict. c. 49; as to the special cases under s. 7 (*b*) and s. 19, *vide supra*, p. 272, notes (*y*), (*z*). It has been doubted whether the provisions of that Act as to costs apply to a reference of this kind; cf. the cases cited, *infra*, note (*c*).

(*a*) S. 12.

(*b*) S. 13; the decision of an appellate court on an award stated as a special case would probably have to be entered in the same way.

(*c*) It may be, however, that this is unnecessary; see *R.* v. *West Riding JJ.* (1865), 34 L. J. M. C. 142; *R.* v. *Middlesex JJ.* (1871), L. R. 6 Q. B. 220.

CHAPTER XVII

COLLECTION AND RECOVERY

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Collection and recovery of rates.—With certain modifications as to excusal, as to discount, and as to the form of demand notes and other points of detail, the procedure for the collection and recovery of poor rates is applied by the Act of 1925 to the general rates and special rates levied in rural areas from April 1, 1927 (*a*), and to the general rates levied in urban areas from the date of the first new valuation (*b*). The rates levied in urban parishes between those two dates (*c*)

(*a*) S. 2 (2), (3); s. 3 (2), *vide supra*, pp. 4, 16. In collecting the general rates made before the date of the first new valuation, effect is to be given to the poor-rate exemptions and abatements described at pp. 79–100, see s. 2 (3), proviso (*a*); as to agricultural *land*, see p. 9, note (*n*).

(*b*) S. 2 (1), (3), *vide supra*, p. 4.

(*c*) *Vide supra*, p. 6.

will continue to be collected and recovered by the procedure previously applicable.

The rating authority has power to reduce or remit the payment of any general or special rate on account of poverty (*d*).

The arrangements to be made for the collection of rates by the rating officers of the rating authority are prescribed by Order (*e*).

Special provisions are enacted for the collection and recovery of rates affected by appeals, or proposals, for the amendment of the valuation list (*f*).

Discount.—The urban or rural rating authority may by resolution direct that discount not exceeding $2\frac{1}{2}$ per cent. shall be allowed at a uniform rate to every person who pays the net amount due before a date prescribed by the authority (*g*); but an owner entitled to any allowances under s. 11 is not to be allowed such discount. Such a resolution may be at any time revoked or varied (*h*).

Demand notes.—The first step in the collection of a general (or special) rate from a ratepayer is the service of a demand note on the occupier or the owner (*i*) who is liable to pay the rate (*k*); it may be addressed to him as such, without describing him otherwise than

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(*d*) S. 2 (4), s. 3 (3).

(*e*) Rate Accounts (R. D. C.'s) Order, 1926, St. R. & O. 1926, No. 1123; (Borough and U. D. C.'s) Order, 1926, No. 1178.

(*f*) S. 36, s. 37 (10), *infra*, pp. 297–298.

(*g*) S. 8 (1); applied to a special rate by s. 3 (2).

(*h*) Sub-s. (2).

(*i*) See Chap. III.

(*k*) Legal liability does not depend on the demanding of the rate, *Davis* v. *Burrell* (1851), 10 C. B. 821; but it is a condition precedent to recovery by the rating authority, see the decisions cited below, and note (*g*), p. 296, *infra*.

as " owner " or " occupier " of the premises in respect of which he is liable, which must be named (*l*). The demand note must be signed by the clerk of the rating authority, or some other officer of theirs who is authorised to perform that duty (*m*). It must give information in respect of certain specified matters (*n*). Where a resolution allowing discount is in force, the effect of it must be stated in the demand note (*o*). After the date of the first new valuation (*p*), the prescribed forms must be used, or forms substantially to the like effect (*q*). Where the owner is rateable for more than one hereditament and is entitled to allowances under s. 11 (1) or (2) (*r*), the particulars are to be entered in schedules attached to the demand note, and indicating the allowance (*s*). The amount demanded in any case must be no more than the actual sum which the rate itself shows to be due (*t*) ; though it may afterwards transpire that a smaller sum is in fact due, owing to the allowance above referred to, or to a change of occupation during the period of the rate (*u*). And if the first demand is

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(*l*) S. 59 (2).

(*m*) S. 59 (3) read with definition of " clerk " in s. 68.

(*n*) See paras. (*a*)–(*g*) of s. 7 (1) ; paras (*f*) and (*g*) do not apply to special rates.

(*o*) S. 8 (3), *supra*, p. 294.

(*p*) S. 19, *vide supra*, p. 106.

(*q*) Forms of Demand Note Rules, 1926, St. R. & O. 1926, No. 798, made under s. 58, rules 1 (2), 2, 4, 5 ; Forms A, B ; see also rules 6–8. Until that date, the previously existing forms are continued in use.

(*r*) *Supra*, pp. 72, 74.

(*s*) Rule 3 (1), (2) ; a similar course may be taken where no allowances can be claimed. Rule 3 (3). For forms of schedule, see Rate Accounts Orders, 1926, St. R. & O. 1926, Nos. 1123, 1178, Forms J, K, L.

(*t*) *Hurrell* v. *Wink* (1818), 8 Taunton, 369 ; *Morton* v. *Brammer* (1860), 29 L. J. M. C. 218 ; *Bavin* v. *Hutchinson* (1862), 31 L. J. M. C. 229 ; *Pigg* v. *Tow Law Overseers* (1923), 22 L. G. R. 17.

(*u*) See *Mansel* v. *Itchen Overseers*, [1906] 1 K. B. 221, *infra*, p. 300, and as to changes of occupation, *vide supra*, p. 9.

for too small a sum, the balance due may be claimed subsequently by the service of a fresh demand note (*x*).

If the whole rate has been duly demanded, and the occupier is not compellable to pay more than three months' rates at a time (*y*), he is not entitled to a fresh demand note for the second instalment (*z*). The same would probably be held to apply to a rate made payable in instalments (*a*).

A demand note may be served after the end of the period of the rate to which it relates, and after the accounts of that rate have been closed (*b*).

The demand note may be served by delivery to the person from whom the rate is due, or by being posted to, or left at, his usual or last known place of abode, or (if that person is a company) at their registered office; or it may be delivered to some person on the premises to which it relates, or fixed on some conspicuous part of the premises, if there is no person there to whom it can be delivered; and if the premises to which it relates are that person's place of business, the demand note may be left there or posted to him at that address (*c*). If that person is a local authority, it may be delivered or posted to their office, addressed to the authority or their clerk (*d*). If any of the above methods of service is proved to have been adopted, it is useless for the person

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(*x*) *R.* v. *Blenkinsop*, [1892] 1 Q. B. 43.

(*y*) Poor Rate, etc., Act, 1869, 32 & 33 Vict. c. 41, s. 2; *vide infra*, p. 301.

(*z*) *Walton-on-the-Hill Overseers* v. *Jones*, [1893] 2 Q. B. 175.

(*a*) Under s. 15 of the Act of 1869, *supra*, p. 11. See Forms of Demand Note Rules, rule 2.

(*b*) *R.* v. *Blenkinsop*, *supra*; *Gill* v. *Mellor*, [1924] 1 K. B. 97.

(*c*) Act of 1925, s. 59 (1) (*a*)-(*e*).

(*d*) S. 59 (3).

in question to show that it has not in fact reached him (*e*).

A receipt book is kept by the rating officer, and receipts must be given by him (*f*).

Proceedings for recovery.—If a demand note has been duly served, and the person liable has refused or neglected to pay, for seven days after demand (*g*), proceedings for recovery may be taken. Such proceedings are commenced by complaint made before a justice of the peace (*h*) by the clerk or other officer who is, by a resolution of the rating authority, generally or specially authorised to make the complaint (*i*). Any number of rates due may be included in a single complaint and in the subsequent proceedings (*k*); and any number of ratepayers may be included in the complaint and the warrant of distress, but not in a warrant of commitment (*l*). If several persons are jointly rated in the same rate for the same hereditament, proceedings may be taken against any one of them for the whole amount due (*m*).

The complaint is followed by a summons, returnable before two justices, to show cause why the rate has not been paid (*n*). If the person summoned does not

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(*e*) Cf. *Butler* v. *Gravesend Urban Authority* (1894), 58 J. P. 446; *Woodford U. D. C.* v. *Henwood* (1899), 64 J. P. 148.

(*f*) Rate Accounts (R. D. C.'s) Order, 1926, rule 4 (i) (iii); (Borough and U. D. C.'s) Order, 1926, rule 5 (1) (ii); Form H.

(*g*) Poor Relief Acts, 1601, 43 Eliz. c. 2, s. 2; 1814, 54 Geo. 3, c. 170, s. 12. A further remedy against the owner of a tithe rentcharge is given by the Tithe Act, 1891, s. 6.

(*h*) Forms of complaint are scheduled to the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14); see s. 8.

(*i*) Act of 1925, s. 56; read with definition of "clerk" in s. 68.

(*k*) Poor Rates Recovery Act, 1862 (25 & 26 Vict. c. 82), s. 1.

(*l*) Act of 1849, s. 3; as to commitment, see p. 311, *infra*.

(*m*) *R.* v. *Paynter* (1845), 7 Q. B. 255; (1847), 10 Q. B. 908.

(*n*) *R.* v. *Benn* (1795), 6 T. R. 198, *Harper* v. *Carr* (1797), 7 T. R. 270; Act of 1849, ss. 5, 8; Sched., Form B.

appear, the justices may proceed *ex parte* (*o*). Upon production of a rate-book (*p*), containing a valid rate in which the person summoned is named as the occupier or as the rateable owner, and upon proof that the amount has been duly demanded and has not been paid (*q*), the justices are bound to issue a warrant of distress (*r*), unless an objection is put forward and established by or on behalf of the person summoned; but the objections which may be thus taken are limited in their nature, and will be discussed below. If an objection is indicated, but is not established by legal evidence, the justices need not give effect to it (*s*). A tender of the whole of the rates due, made at any time before commitment, with costs incurred up to the date of the tender, puts a stop to the proceedings (*t*); and if a part of the rates due is tendered before the justices, they need not issue a distress-warrant for more than the balance (*u*), though they may issue a warrant for the whole, if they think fit (*x*).

Proceedings for recovery may be taken although an appeal is pending with respect to the valuation list, the values shown in which are conclusive for the purpose of the rate in question; but the amount recoverable pending the decision of the appeal is restricted (*y*). An

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(*o*) S. 5.

(*p*) Described, *supra*, pp. 11–13.

(*q*) *R.* v. *Benn*, *supra*; as to a payment obtained by fraud, see *Hornchurch Overseers* v. *L. T. & S. Rail. Co.* (1912), 76 J. P. 385.

(*r*) See *R.* v. *Handsley* (1881), 7 Q. B. D. 398, and the cases cited, *infra*, pp. 298–305.

(*s*) *Palmer* v. *Crone*, [1927] 1 K. B. 804.

(*t*) Act of 1849, s. 6; *Walsh* v. *Southwell* (1851), 20 L. J. M. C. 165.

(*u*) *R.* v. *Gillespie*, [1904] 1 K. B. 174.

(*x*) *Ex parte Wiles* (1903), Ryde and Konstam, 356, n.

(*y*) Act of 1925, s. 36 (1), *vide supra*, p. 256.

increase in rates due to an increase in value made upon an appeal relating to the valuation list may be subsequently recovered, while conversely, allowance is to be made for a decrease so caused (*z*).

Except as regards the stating of a case (*a*), the Summary Jurisdiction Acts do not apply to these proceedings (*b*). There seems to be no power to award costs to the defendant, if the summons is dismissed.

Objections on the summons: proof of rate and demand: satisfaction.—The duty of the justices on the hearing of the summons has been shortly summarised above; in many of the earlier cases, the question was discussed whether that duty is "ministerial" or "judicial" (*c*), but at the present day there seems little to be gained by weighing the precise effect of those adjectives.

According to the most recent exposition, the justices are (apart from payment which is a good defence) bound to hear and determine any objection which amounts to an allegation that the rating authority in making the rate, "have acted in excess of their jurisdiction;" but may not take cognisance of an allegation that the rating authority "have acted erroneously in the exercise of their jurisdiction" (*d*).

(*z*) S. 36 (2). The above enactments are applied by s. 37 (10) to cases of "proposal" for amendment of the list, see Chap. XIV.

(*a*) *Vide infra*, p. 306.

(*b*) *R.* v. *Price* (1880), 5 Q. B. D. 300; *In re Allen*, [1894] 2 Q. B. 924.

(*c*) See *e.g.* on the one hand, *Ex parte May* (1862), 31 L. J. M. C. 161; *R.* v. *Price* (1880), 5 Q. B. D. 300; *R.* v. *Handsley* (1881), 7 Q. B. D. 398, *supra*, p. 298; on the other, *R.* v. *Benn* (1795), 6 T. R. 198; *Harper* v. *Carr* (1797), 7 T. R. 270, *supra*, p. 296.

(*d*) *Per Shearman, J.*, in *Shillito* v. *Hinchliffe*, *infra*, p. 300, [1922] 2 K. B. p. 247, citing Ryde on Rating, 4th edn., p. 758.

As indicated above, it is for the complainant to produce a rate which is, on the face of it, valid ; the production of the book purporting to contain the rate, if the rate is made in the prescribed form (*e*), is *primâ facie* evidence of the due making and publication of the rate (*f*). But it is only *primâ facie* evidence, which can be rebutted by showing that any of the formalities required in its making has been omitted (*g*), or that it has not been duly published (*h*). On the other hand, it is not permissible to show that the rate is invalid on other than formal grounds, *e.g.* that it is made for a period (*i*) or for purposes (*k*) for which it could not be legally made. It may be shown that the rate does not conform in matters of value to the valuation list, as applicable for the purposes of the rate (*l*) ; but it is not permissible to show that the valuation list, to which

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(*e*) See pp. 11–13, *supra*.

(*f*) Poor Rate, etc., Act, 1869, s. 18, as amended by the Act of 1925, ss. 4 (1), 69 (1), and 8th Sched.

(*g*) Cf. *R.* v. *North Staffs. JJ.* (1853), 23 L. J. M. C. 17, and *R.* v. *Eastern Counties Rail. Co.* (1856), 5 E. & B. 974 ; but the actual formalities required for the making of rates under the Act of 1925 (see Chap. I), are somewhat different from those required in making a poor rate ; *e.g.* no allowance by justices is now required, such as was lacking in the *North Staffs.* case ; see last note.

(*h*) *R.* v. *Newcomb* (1791), 4 T. R. 368 ; *Beeson* v. *Derby Overseers* (1903), Ryde and Konstam, 328. As to publication, see pp. 13, 17, *supra*.

(*i*) *Durrant* v. *Boys* (1796), 6 T. R. 580, and see the cases cited in the next note ; as to the period of a rate, see s. 4 of the Act of 1925, *supra*, p. 10.

(*k*) *R.* v. *Kingston JJ. & Philips* (1858), 1 E. B. & E. 256 ; *R.* v. *Streetfield* (1863), 27 J. P. 391 ; *Cheney* v. *Tallowin*, [1904] 2 K. B. 763 ; the objection in the above cases was that the rate was retrospective, as to which see now Act of 1925, s. 12. Cf. also *Luton L. B.* v. *Davis* (1860), 2 E. & E. 678 ; *R.* v. *Essex JJ.* (1877), 36 L. T. 555.

(*l*) *Sheffield Waterworks Co.* v. *Mayor, etc., of Sheffield* (1886), 50 J. P. 6 ; *Veasey* v. *Beardsley, Ltd.* (1924), 23 L. G. R. 118. See Chaps. V, XIV.

the rate duly conforms, is itself improperly made (*m*). If the valuation list has been altered on appeal so as to reduce the amount due in respect of a rate which must conform to that list, effect may be given to this reduction by the justices, if that has not already been done (*n*).

Again, the complainant must show that the rate has been duly demanded, and that there has been a neglect or refusal to pay. Consequently, the justices are bound to consider an objection that there has not been a demand duly made, or that a greater sum has been demanded than is shown by the rate itself to be due (*o*). The proceedings are to be stopped if the rate and costs are paid or tendered in full (*p*); it would seem therefore that if this is alleged to have been done, the justices are bound to admit the evidence, and if the allegation is proved, to refrain from issuing a distress warrant (*q*). The justices may have regard to a tender of part payment made at the hearing of the summons (*r*). And it may be shown that by reason of a change of occupation, a smaller sum turns out to be due than was originally demanded (*s*); or that the person summoned is entitled to the allowances granted by s. 11 (1) or (2) of the Act of 1925, because he is liable as owner and

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(*m*) *Mayor, etc. of Westminster* v. *Army and Navy Auxiliary, etc.*, [1902] 2 K. B. 125; *Shillito* v. *Hinchliffe*, [1922] 2 K. B. 236.

(*n*) See Act of 1925, s. 36 (2), *supra*, p. 274.

(*o*) See the cases cited, *supra*, p. 294, note (*t*).

(*p*) Act of 1849, s. 6, *supra*, p. 297.

(*q*) The dictum to the contrary of *Kennedy, J.*, in *R.* v. *Gillespie*, [1904] 1 K. B. 174, at p. 180, is difficult to reconcile with the section last cited.

(*r*) *R.* v. *Gillespie*; *Ex parte Wiles*, *supra*, p. 297.

(*s*) *Mansel* v. *Itchen Overseers*, [1906] 1 K. B. 221, *supra*, p 294, note (*u*).

not as occupier (*t*). Again, the person summoned may show that he is the occupier of a rateable hereditament let to him for a term not exceeding three months ; and if so, the justices cannot issue a warrant against him for more than a quarter's rates (*u*). If the rating authority have in hand money overpaid on account of previous rates, sufficient to satisfy the present demand, the magistrates are justified in declining to issue a distress warrant, because the claim of the rating authority is contrary to good faith (*x*). It may also be shown that a correction of the rate made upon an alleged change of occupation, etc., has not been validly made (*y*). Points arising in bankruptcy, winding-up, etc., are considered below (*z*).

Objections on the summons : occupation : exemption.—Apart from questions of validity, demand, and satisfaction, there are certain substantive matters which may be raised by the defendant on objection to a summons, and which if established by him, prevent the issue of a warrant.

The general rule which determines the admissibility of such matters is as follows : " the justices have " jurisdiction if the question is whether the defendant

(*t*) Cf. *West Ham Overseers* v. *Fourth City Mutual Building Society*, [1892] 1 Q. B. 654 ; *Fourth City, etc.* v. *East Ham Overseers, ibid.*, 661, and see Chap. III.

(*u*) Poor Rate, etc., Act, 1869, ss. 1, 2 ; *Hammond* v. *Farrow*, [1904] 2 K. B. 332, *supra*, p. 77.

(*x*) *L. & N. W. Rail. Co.* v. *Bedford* (1852), 17 Q. B. 978 ; *Leicester Waterworks Co.* v. *Cropstone Overseers* (1875), 44 L. J. M. C. 92 ; *Blackpool Tramroad Co.* v. *Bispham U. D. C.*, [1910] 1 K. B. 592, approved (in dealing with a poor rate) by SHEARMAN, J., in *Shillito* v. *Hinchliffe*, [1922] 2 K. B. 248. See also *R.* v. *Parker* (1857), 7 E. & B. 155 ; *R.* v. *Kingston JJ. & Wedd* (1858), 1 E. B. & E. 259 ; and s. 36 (2) of the Act of 1925.

(*y*) S. 5 (1) (*c*), *supra*, p. 15 ; cf. *R.* v. *Monken Hadley Overseers* (1910), 74 J. P. 169.

(*z*) See pp. 313, 316.

" ought to have been rated at all or, if at all, for the " full rateable value. If the [rating authority] have " rated premises which ought not to be rated at all or " for the full value, *quoad tantum* they have exceeded " their powers " (*a*). " It is not accurate to say that " at the present time the only objections open to the " justices to consider are whether the lands are situate " within the parish and whether the person rated is " in fact the occupier " (*b*).

Long before the rule was thus formulated, it was clear that the person summoned is entitled to show that he is not in occupation of the hereditaments in question, either as to the whole of them (*c*), or as to any part specifically mentioned in the rate-book (*d*); or to show that the land he occupies is not in the parish for which the rate is made (*e*). He may show that the description in the rate-book cannot be satisfied without including property which he does not occupy (*f*).

(*a*) *Whenman* v. *Clark*, [1915] 1 K. B. 548, *per* BRAY and ATKIN, JJ., at p. 559; [1916] 1 K. B. 94, *per* SWINFEN EADY, L.J., at p. 111; *per* PICKFORD, L.J., at p. 122.

(*b*) [1916] 1 K. B., *per* SWINFEN EADY, L.J., at p. 110.

(*c*) *Milward* v. *Caffin* (1780), 2 W. Bl. 1330; *L. & N. W. Rail. Co.* v. *Giles* (1869), 33 J. P. 776; *R.* v. *Bagshawe* (1896), 75 L. T. 513. See Chap. II.

(*d*) *Bristol Governors of the Poor* v. *Wait* (1834), 1 Ad. & E. 264; *L. & N. W. Rail. Co.* v. *Buckmaster* (1874), L. R. 10 Q. B. 70; *Rochdale Canal Co.* v. *Brewster*, [1894] 2 Q. B. 852; *vide supra*, pp. 35-46. See, however, observations on the decision in *Manchester Overseers* v. *Headlam* (1888), 21 Q. B. D. 96, and the other cases cited therewith, *infra*, p. 304, note (*q*).

(*e*) *Weaver* v. *Price* (1832), 3 B. & Ad. 409; see also *Barwick* v. *S. E. & C. Rail. Co.*, [1921] 1 K. B. 187, *supra*, p. 58.

(*f*) *Milward* v. *Caffin*, *L. & N. W. Rail. Co.* v. *Buckmaster*, *supra*; *Langford* v. *Cole* (1910), Konstam and Ward, 192. A general description, however, may be sufficient, provided it is not incorrect: *R.* v. *Eastern Counties Rail. Co.* (1856), 5 E. & B. 974. As to description, see further, p. 304, note (*q*).

And he may show that he occupies as a servant only, and therefore that the occupation (if any) is that of his employer (*g*). If the person summoned is sought to be made liable as owner, he may show that he is not liable as such (*h*); for instance, that the conditions imposed by s. 11 (1), or (2), of the Act of 1925 are not fulfilled (*i*).

It was, however, at one time thought that where there was actual possession or occupation in fact, the objection that that occupation was not rateable, because it was exempt (*k*), or because it was not beneficial (*l*), could not be raised before justices on a summons for distress, but only on appeal to quarter sessions against the rate. It has now been decided, in accordance with the rule above stated (*m*), that, first, a claim for exemption on the ground of occupation by a servant of the Crown for the purposes of the Crown, and, secondly, a claim to an exemption created specifically by Act of Parliament (*n*), may be established on

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(*g*) *Yates* v. *Chorlton-upon-Medlock* (1883), 47 J. P. 630; *R.* v. *Simmons* (1893), Ryde (1891–93), 316; a servant may of course have a hereditament in his own occupation. Cf. *Smith* v. *Seghill Overseers* (1875), L. R. 10 Q. B. 422; *Bertie* v. *Walthamstow Overseers* (1904), 68 J. P. 545, *supra*, pp. 45, 46.

(*h*) *West Ham* v. *Fourth City, etc., Fourth City, etc.* v. *East Ham*, cited, *supra*, note (*t*); *R.* v. *Thornton* (1892), 8 T. L. R. 555; *Pigg* v. *Tow Law Overseers* (1923), 22 L. G. R. 17; a question as to rateability for sporting rights was raised upon summons in *Swayne* v. *Howells*, [1927] 1 K. B. 385, *supra*, p. 64.

(*i*) See Chap. III; and cf. *Norwood Overseers* v. *Salter*, [1892] 2 Q. B. 118, *supra*, p. 71.

(*k*) See *Birmingham Churchwardens* v. *Shaw* (1849), 10 Q. B. 868; *R.* v. *Hannam* (1886), 34 W. R. 355.

(*l*) See note (*p*), *infra*.

(*m*) See Chap. IV.

(*n*) *Whenman* v. *Clark*, *supra*. Exemptions are considered in Chap. IV; the statement in the text does not apply to those partial exemptions to which effect is given in arriving at rateable value, *vide infra*, notes (*s*), (*t*).

objection to a summons, and will prevent the issue of a warrant (*o*).

After the decision in *Whenman* v. *Clark*, it is clear that the duty of the justices upon a question of occupation is not confined to seeing whether occupation in fact is established ; and it appears to follow that they have jurisdiction to consider whether that occupation is of benefit (*p*).

Again it may be doubted whether, at the present day, it would again be decided (*q*) that where the person summoned is able to show that some other party is in rateable occupation of a part of the hereditaments in question, he is precluded from taking the objection by the fact that both the hereditaments which he does, and those which he does not occupy, are covered by a description in the rate-book which is vague enough to be common to both.

One large field of inquiry is, however, outside the

(*o*) *Wixon* v. *Thomas*, [1911] 1 K. B. 43, *supra*, p. 47. In this case, and that next cited, the circumstance that no facts were in dispute is referred to in the judgments ; but they are not based on this circumstance, see *Shillito* v. *Hinchliffe*, [1922] 2 K. B. 236, *supra*.

(*p*) The earlier decisions to the contrary in *R.* v. *Bradshaw* (1860), 29 L. J. M. C. 176, and *Mersey Docks* v. *Cameron* (1861), 30 L. J. M. C. 194 (see the dissenting judgment of WILLES, J.) expressly follow *Birmingham Churchwardens* v. *Shaw*, *supra*, note (*k*), to which the judgments in *Whenman* v. *Clarke* leave very little authority, if any. A question of this kind (occupation in fact having been admitted) was considered by the justices, and by the K. B. D. on a special case stated by them, both in *Borwick* v. *Southwark Corporation*, [1909] 1 K. B. 78, and in *Hackney Borough Council* v. *Metropolitan Asylums Board* (1924), 40 T. L. R. 645. The distinction between occupation and beneficial occupation is dealt with, *supra*, p. 48.

(*q*) As it was in *Manchester Overseers* v. *Headlam* (1888), 21 Q. B. D. 96. In the more recent cases of *Margate Corporation* v. *Pettman* (1912), Konstam and Ward, 327, and *Vernon* v. *Castle* (1922), 2 Butterworth, 949, the Court proceeded on the ground that the description was not such as to include hereditaments occupied by another person.

purview of the justices on the hearing of a summons ; they have no jurisdiction to entertain any question of the amount of rateable value ; and no objection can be taken on the ground that it is excessive (*r*). No claim can therefore be so raised to a partial exemption which is to be allowed in arriving at rateable value, such as a reduction allowed by Part II of the Second Schedule (*s*) ; on the other hand, such a partial exemption as is given to similar properties with regard to special rates may be claimed ; as may an abatement for agricultural land on a general or special rate made before the date of the first new valuation (*t*).

Distress warrants : costs.—The duty of justices to issue a distress warrant for any amount which, after the proceeding above described, is found to be due, has been indicated (*u*) ; the warrant may be directed to the rating authority and to a constable, or any person (such as an officer of the rating authority) as the justices think fit (*x*). If it is directed to the rating authority, they may appoint a deputy for the purpose of executing it (*y*). The justices have no power to order that

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(*r*) *R.* v. *Trecothick* (1834), 2 Ad. & E. 405 ; *Crease* v. *Sawle* (1842), 2 Q. B. 862, and *Manchester Overseers* v. *Headlam* (see last note) both proceeded on this ground, in refusing to allow the person summoned to raise the question that a part of the hereditaments included in the assessment was not in his occupation ; though it is obvious that this question was not *purely* one of value.

(*s*) *Vide supra*, pp. 98–103 ; other privileges which lead to a reduction of rateable value are considered, *supra*, pp. 91–97.

(*t*) Ss. 2 (3), 3 (2) *vide supra*, pp. 9, 103, 292 ; see the passage cited from *Whenman* v. *Clark*, *supra*, p. 302, note (*a*).

(*u*) *Supra*, p. 297. As to proceedings against more than one person, or for more than one rate, *vide supra*, p. 296.

(*x*) Distress for Rates Act, 1849, s. 4, read with Act of 1925, ss. 1 (2), 62 (3) ; as to forms of warrant, see Act of 1849, s. 8, and Forms C1, C2, scheduled thereto.

(*y*) *Walsh* v. *Southwell* (1851), 20 L. J. M. C. 165.

the execution of the warrant of distress shall be delayed (*z*).

The warrant may include the costs of obtaining it, as well as the reasonable charges of taking, keeping, and selling the distress (*a*). These "reasonable charges" are limited by a scale as follows, where the sum due for rates does not exceed £20: levying distress, 3*s.*; man in possession 2*s.* 6*d.* per day; appraisement, 6*d.* in the £ on the value of goods; stamp, the lawful amount; advertisements, if any, 10*s.*; catalogues, sale and commission and delivery of goods, 1*s.* in the £ on the net produce of the sale (*b*).

Special case.—Though the provisions of the Summary Jurisdiction Acts do not apply generally to proceedings for the recovery of rates, they do apply so as to allow a special case on a point of law to be stated by the justices upon ordering the issue of a distress warrant or dismissing the summons (*c*). The justices have no power to refuse a special case if application is duly made, unless they certify the application to be frivolous (*d*). The procedure is that laid down by the Summary Jurisdiction Acts, and need not be described here; but the following are points which must be

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(*z*) *R.* v. *Handsley* (1881), 7 Q. B. D. 398, *supra*, p. 297. The justices may have a discretion at a later stage, *infra*, p. 311.

(*a*) Act of 1849, s. 1; they have a discretion in the matter, *R.* v. *Baker* (1909), 73 J. P. 166. The costs of obtaining the warrant are payable to the complainant: *Walsh* v. *Southwell*, *supra*.

(*b*) Distress (Costs) Act, 1817 (57 Geo. 3, c. 93), s. 1, Schedule; 1827 (7 & 8 Geo. 4, c. 17); *Coster* v. *Headland*, [1906] A. C. 286; Cf. *R.* v. *Smith*, [1927] 1 K. B. 478. A constable (or other person) who removes the goods, and keeps them in his custody is a "man in possession": *Scott* v. *Denton*, [1907] 1 K. B. 456.

(*c*) *R.* v. *Mayor, etc., of London* (1887), 57 L. T. 491; *Fourth City Mutual Building Society* v. *East Ham Overseers*, [1892] 1 Q. B. 661.

(*d*) Summary Jurisdiction Act, 1857 (20 & 21 Vict. c. 43), s. 4.

kept in mind (*e*). The application, with a copy of the application for each of the justices who constituted the court, must be left with the clerk of the court within seven clear days from the date of the proceedings to be questioned (*f*).

Recognisances must be entered into by the appellant at the time of making the application, and before the case is stated and delivered to him (*g*); where a rating authority (or other corporate body) is the appellant, recognisances entered into by their clerk in his own name are not sufficient (*h*).

Within three days after receiving the case, the appellant must serve a copy of it, with a notice of appeal, on the other party, and must lodge a copy of it at the Crown Office (*i*).

Such a special case is heard by a Divisional Court of the King's Bench Division (*k*); and there is no appeal against the judgment of that court (*l*). The court appears to have no power to deal with the costs incurred before the justices (*m*).

If the application for the special case is made upon an order for the issue of a distress warrant, the warrant will of course not issue until the Divisional Court have

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(*e*) For a full account, see Douglas' Summary Jurisdiction, 10th edn., 1926, Appendix I.

(*f*) Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 33; S. J. Rules, 1915–1922, St. R. & O. 1915, No. 200/L.12, rule 52; *R.* v. *Stoke-on-Trent JJ.*, [1926] 2 K. B. 461.

(*g*) Act of 1857, c. 43, s. 3.

(*h*) *Leyton U. D. C.* v. *Wilkinson*, [1927] 1 K. B. 315.

(*i*) Act of 1857, s. 2. As to service, etc., see Douglas' Summary Jurisdiction.

(*k*) S. C. of Judicature Act, 1925 (15 & 16 Geo. 5, c. 49), s. 63 (1).

(*l*) *Seaman* v. *Burley*, [1896] 2 Q. B. 344.

(*m*) *Margate Corporation* v. *Pettman* (1912), Konstam and Ward, 327.

given judgment affirming the order (*n*). If the case is applied for upon a refusal to issue a distress warrant for the full amount of the summons, and is not proceeded with, the High Court will not afterwards grant a mandamus to issue such a warrant (*o*).

Levy of distress.—A distress for rates is only partly analogous to a distress for rent and is more of the nature of an execution (*p*) ; it is only the goods of the person in default that may be seized (*q*). On the other hand, chattels necessary to a trade may be taken, such as beasts of the plough (*p*) ; and a second distress may be levied for the same demand, if insufficient goods are seized the first time, owing to a mistake in value (*r*), or if the person whose goods are taken has frustrated the first levy and sale (*s*). The goods are not protected by a bill of sale to which the Bills of Sale Act, 1882, applies (*t*).

There is no right to break open a dwelling-house in executing the warrant (*u*) ; and the person distraining must not remain on the premises a longer time than is reasonable for taking and removing the goods (*x*).

The amount due may be tendered before the levy, or commitment, but if either is to be prevented this tender must include the cost of the warrant, and of the

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(*n*) S. 9 of the Act of 1857 gives power to the same or other justices to issue the warrant thereafter.

(*o*) *R.* v. *Shuttleworth* (1908), 72 J. P. 329.

(*p*) *Hutchins* v. *Chambers* (1758), 1 Burrow, 579.

(*q*) Poor Relief Act, 1601 (43 Eliz. c. 2), s. 2.

(*r*) *Hutchins* v. *Chambers*, *supra*.

(*s*) *Lee* v. *Cooke* (1858), 27 L. J. Ex. 337.

(*t*) 45 & 46 Vict. c. 43, s. 14.

(*u*) *Bell* v. *Oakley* (1814), 2 M. & S. 259 ; *Theobald* v. *Crickmore* (1818), 1 B. & Ald. 227.

(*x*) *Peppercorn* v. *Hofman* (1842), 9 M. & W. 618.

broker's attendance to make the levy (*y*); provided the latter cost has already been incurred.

The offender's goods may be seized in any parish within the same county, or jurisdiction; and if sufficient distress cannot be found there, then in another county or jurisdiction provided that a sworn statement to that effect is made before a justice of that county, and endorsed by him on the warrant (*z*).

Appeal against distress.—An appeal against the distress lies to the next practicable quarter sessions for the county (*a*) *after* the distress has been levied (*b*); that is to the next quarter sessions to which there is time (after the levy) to give the fourteen clear days' notice required to be given to the rating authority (*c*).

The appeal is not an appeal from an order of a court of summary jurisdiction, and no recognisances are necessary (*d*). The questions that may be dealt with on such an appeal are limited like those that may be raised on the hearing of the summons (*e*).

Other means of challenging decision.—After the issue of the distress warrant and the levy of distress, the validity of the proceedings may also be challenged in two ways: by action of replevin on any ground which may be taken before the justices in

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(*y*) Distress for Rates Act, 1849, s. 6; *Walsh* v. *Southwell* (1851), 20 L. J. M. C. 165.

(*z*) Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 7; 1814 (54 Geo. 3, c. 170), s. 12.

(*a*) Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 7.

(*b*) *R.* v. *London JJ.*, [1899] 1 Q. B. 532.

(*c*) Act of 1743, ss. 4, 7; Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 1; Act of 1925, ss. 1 (2), 62 (1), (3); Overseers Order, 1927 art. 5 (3); see p. 297, *supra*. As to notice and conditions of appeal generally, cf. pp. 279, 285, *supra*.

(*d*) *R.* v. *Lincs. JJ.*, [1912] 2 K. B. 413.

(*e*) *R.* v. *Kent JJ.* (1867), 16 L. T. 672, *vide supra*, pp. 298–305.

answer to the summons, but on no other (*f*); or by action of trespass or illegal distress against the justices and the persons executing the warrant, on grounds which (so far as the justices only are concerned) are further limited by the exclusion of any allegation that the rate is irregular or defective, or that the person named in the rate or the warrant is not rateable (*g*). No action of illegal distress may be brought against the justices if the order for the issue of a distress warrant has been confirmed on appeal (*h*), or until that order has been quashed (*i*). The justices are further protected against any action for any act done in the execution of their duty, and within their jurisdiction, unless malice is proved (*k*); and they are not liable in such an action, even though the distress turns out to have been illegal, if the evidence adduced before them on the hearing of the summons is sufficient *primâ facie* to found their jurisdiction, and if the facts ousting their jurisdiction are not then proved by regular evidence (*l*). No such action can be brought against any constable or other

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(*f*) See *e.g. Milward* v. *Caffin* (1780), 2 W. Bl. 1330; *L. & N. W. Rail. Co.* v. *Buckmaster* (1874), L. R. 10 Q. B. 70, 444; *Rochdale Canal Co.* v. *Brewster*, [1894] 2 Q. B. 852, *supra*, p. 39. In *Mersey Docks* v. *Cameron* (1861), 30 L. J. M. C. 194, *supra*, p. 304, it was held that replevin would not lie on a question of exemption; the technical objection was waived in the subsequent proceedings (1865), 11 H. L. C. 443, *supra*, p. 33. Many of the cases cited, *supra*, pp. 298–305, dealing with the justices' jurisdiction arose in replevin, or in trespass, see *e.g.* in addition to the above cases, *Weaver* v. *Price* (1832), 3 B. & Ad. 409; *Crease* v. *Sawle* (1842), 2 Q. B. 862.

(*g*) Justices Protection Act, 1848 (11 & 12 Vict. c. 44), s. 4; this does not prevent an action against the other persons on such a ground: *L. & N. W. Rail. Co.* v. *Giles* (1869), 33 J. P. 776.

(*h*) S. 6; as to appeal, see pp. 306, 309, *supra*.

(*i*) S. 2.

(*k*) Ss. 1, 2; see the case next cited.

(*l*) *Palmer* v. *Crone*, [1927] 1 K. B. 804, *supra*, p. 297.

officer carrying out the warrant of distress (including an officer of the rating authority, and any brokers or others acting under the order of such a person), unless a perusal and copy of the warrant have been demanded, and refused for six days (*m*).

The Public Authorities Protection Act, 1893 (*n*), would probably also be held to apply for the protection of the rating authority or its officers, and perhaps also of the justices ; and the six months' limitation to run from the levy of the distress (*o*).

Commitment.—On a return by the person having the execution of the warrant of distress that no goods, or no sufficient goods can be found to satisfy the warrant (which includes both the rate due and the costs of obtaining the warrant and the costs of the levy (*q*)), two justices may in their discretion issue a warrant committing the person in default to imprisonment for a term not exceeding three months, unless those amounts together with the costs of the commitment are paid before that time expires (*r*). The several sets of costs are to be stated separately in this warrant (*s*).

If the person in default, however, proves to the satisfaction of the justices that his failure to pay is due

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(*m*) S. 6 of the Constables Protection Act, 1750, 24 Geo. 2, c. 44, was applied to overseers, *Nutting* v. *Jackson* (1773), 1 Bott, 325 ; *Nutting* v. *Jackson* (1797), 7 T. R. 270 ; *Palmer* v. *Crone, supra ;* and must apply to a rating authority or their officer to whom the warrant is directed, *vide supra*, p. 305.

(*n*) 56 & 57 Vict. c. 61.

(*o*) Cf. *Polley* v. *Fordham*, [1904] 2 K. B. 345.

(*q*) *Supra*, p. 306.

(*r*) Poor Relief Act, 1601, s. 2 ; Distress for Rates Act, 1849, s. 2.

(*s*) S. 2, proviso ; as to the form of warrant, see s. 8 and Form D. More than one person may not be included in the same warrant of commitment, s. 3, proviso.

to circumstances beyond his control, the justices must not issue a warrant of commitment; and they may at the same time remit payment of the rate altogether. If they so remit, no further proceedings can be taken; but if they do not, the rating authority may subsequently renew their application for a warrant of commitment, on the ground that the circumstances of the person have changed in the interval (*t*).

Recovery from tenant or lodger.—Where the rates due from the person rated are in arrear, the rating authority may serve a notice on any person who pays a "rent" for that hereditament (or for any part of it) directing him to pay his "rent" to the rating authority until the arrears of rates have been paid; and he will be discharged of his rent up to the amount paid by him under the notice (*u*). The word "rent" here includes a payment by a lodger (*x*). But if a superior landlord has previously given a notice under s. 6 of the Law of Distress Amendment Act, 1908 (*y*), his rights prevail over those of the rating authority. Subject to this, the notice appears to give the rating authority all the rights of distraint and recovery against the recipient of the notice that his landlord would possess.

It may be doubted whether, after having served such a notice, the rating authority can also proceed to recover the rates from the person rated, unless indeed the liability to pay "rent" of the person on whom the notice has been served is for some reason at an end.

(*t*) Act of 1925, s. 2 (3), proviso (*b*).

(*u*) S. 15 (1). As to the authentication and service of such a notice, see sub-ss. (3) and (1) of s. 59; sub-s. (2) is not applicable.

(*x*) Sub-s. (3).

(*y*) 8 Edw. 7, c. 53.

Collection and recovery where owners are liable.—Where an owner is rated, or is bound by an agreement to pay rates, or to collect rates from occupiers on behalf of a rating authority (*z*), the rates for which he is thus liable may be collected and recovered from him in the same way as if he were the occupier ; where the undertaking is to collect rates, and perhaps also in the other cases just mentioned, they may alternatively be so recovered from an agent of the owner's, who collects the rates (*a*). Provision is made for adapting the demand notes to such cases (*b*).

In the case of an undertaking to collect rates, the amount recoverable from the owner is limited to the same proportion of the rates due, as the amount of rent and rates actually collected by him bears to the aggregate amount due (*c*) ; if the correct sum recoverable in view of this provision is not claimed in the summons for a distress warrant, it will be open to the owner (or his agent) summoned to show what is the actual amount due, and the justices must not issue a warrant for any greater amount (*d*).

Bankruptcy and winding up : floating charge.—Priority is given to general and special rates in the distribution of the property of a bankrupt (*e*), or of a person dying insolvent whose estate is being

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(*z*) S. 11 (1), (2) ; see Chap. III.

(*a*) S. 11 (4), *vide supra*, pp. 73, 76, where the provisions for payment of rates by the occupier, and for recovery against him, if the owner fails to pay, are also indicated.

(*b*) *Supra*, p. 294.

(*c*) S. 11 (5), *supra*, p. 75.

(*d*) Cf. *Mansel* v. *Itchen Overseers*, [1906] 1 K. B. 221, *supra*, p. 300. Other points open to owners on such a summons are indicated, *supra*, pp. 300, 301.

(*e*) Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 33 (1) (*a*).

administered by the court (*f*), in a winding up (*g*), and (where a company is not at the time being wound up) in any case in which a receiver is appointed on behalf of debenture-holders secured by a deed of floating charge or where possession is taken by or on behalf of such debenture-holders of property comprised in or subject to the charge (*h*). In all these cases, however, the priority is limited to rates due at a certain date, and having become due and payable within twelve months before that date; these dates are as follows: in the case of a bankruptcy, the date of the receiving order (*i*); in the case of a person dying insolvent, the date of the death (*k*); in the case of a winding up, where the company has been ordered to be wound up compulsorily, and had not previously commenced to be voluntarily wound up, the date of the winding-up order (*l*); where the company has commenced to be voluntarily wound up, and is afterwards wound up compulsorily (*m*), and where the company is being wound up voluntarily, the date of the resolution for the voluntary winding up (*n*); in a case where a receiver is appointed under a deed of floating charge, the date of his appointment; and in a case where possession is taken under such a deed, the date of taking possession (*o*).

A general or special rate becomes "due and pay-

(*f*) S. 33 (5). *In re Heywood*, [1897] 2 Ch. 593; *Laycock* v. *Special Commissioners*, [1919] 1 Ch. 241.

(*g*) Companies (Consolidation) Act, 1908 (8 Edw. 7, c. 69), s. 209 (1) (*a*); a surety who pays the rates for the company is entitled to the same priority as the rating authority, *In re Lamplugh Iron Ore Co., Ltd.*, [1927] 1 Ch. 308.

(*h*) S. 107 (1).

(*i*) Act of 1914, s. 33 (1) (*a*).

(*k*) S. 33 (5).

(*l*) Act of 1908, s. 209 (5) (a).

(*m*) *In re Havana Exploration Co., Ltd.*, [1916] 1 Ch. 8.

(*n*) S. 209 (5) (*b*).

(*o*) S. 107 (2).

" able " on the date when it is made (*p*). Any of the above priorities will therefore apply only to rates made (*q*) within twelve months of the relevant date. But it will apply to the whole of a rate so made (*r*), subject to the provisions of the Act of 1925 as to a change of rateable occupation, if any such takes place subsequently to the making of the rate (*s*).

In bankruptcy, if a receiver voluntarily enters into occupation of the bankrupt's premises and thereby makes himself liable for the rates during the period of his occupation (*s*), he does not get rid of that liability by subsequently disclaiming the tenancy (*t*).

Where a scheme of arrangement (to which the rating authority are a party) is sanctioned by the court in lieu of a winding up, and gives the authority a priority similar to that given in a winding up, they cannot subsequently take distress proceedings for the rates concerned (*u*).

Distress proceedings may become necessary for rates to which the above priorities do not extend, whether because the rate is made more than twelve months before the governing date, or because the rate

(*p*) *Davis* v. *Burrell* (1851), 10 C. B. 821 ; see *per* GREER, J., in *Kershaw, Leese* v. *Stockport Overseers*, [1923] 2 K. B. 129, at p. 135 ; after the date of the first valuation under the Act of 1925, the circumstances which in that case made the rate cease to be due and payable cannot arise.

(*q*) As to the making of a rate, see pp. 11, 17, *supra ;* possibly in the cases dealt with in s. 5 (1) (*c*) of the Act of 1925 (*supra*, p. 15), an amended rate may become " due and payable " on the date of the amendment, on the analogy of *Kershaw's* case, *supra*.

(*r*) *In re Wearmouth Crown Glass Co.* (1882), 19 Ch. D. 640 ; *In re Mannesmann Tube Co., Ltd.*, [1901] 2 Ch. 93.

(*s*) S. 4 (4), *vide supra*, p. 9. Occupation by receivers and liquidators, and changes of occupation, are considered, *supra*, pp. 64, 65.

(*t*) *In re Lister*, [1926] Ch. 149.

(*u*) *Kershaw, Leese and Co.* v. *Stockport Overseers*, [1923] 2 K. B. 129, *supra*.

is made subsequently to the entry into possession of a receiver or liquidator, etc. (*x*). In all such cases the leave of the court is required, for the continuance of proceedings commenced before such entry (*y*), as well as for the subsequent commencement of distress proceedings (*z*). Proceedings commenced or carried on without leave may be restrained by injunction (*y*), (*z*), even after the presentation of a winding-up petition (*a*). The court will, as a general rule, grant leave unless "a strong case of a manifestly unjust rate" is made out (*b*). Leave is also required where an estate is being administered by the court under s. 122 of the Bankruptcy Act, 1883 (*c*).

If the liquidator (or receiver) is the person rated, and distress proceedings are taken against him, he is nevertheless rated only as representing the company (or the debenture holders) for this purpose, and the distress warrant cannot be issued against him personally, so as to make his own goods distrainable (*d*).

(*x*) As to the liability for such rates, see note (*s*), *supra*.

(*y*) *In re Dry Docks Corporation* (1888), 39 Ch. D. 306.

(*z*) See Bankruptcy Act, 1914, s. 9 (1); and cf. *Ex parte Hill* (1877), 6 Ch. D. 63: Companies (Consolidation) Act, 1908, ss. 140, 142, 211; *In re Watson, Kipling & Co.* (1888), 23 Ch. D. 500; *In re International Marine Hydro. Co.* (1884), 28 Ch. D. 470; *In re National Arms Co.* (1885), *ibid.*, 474 (Liquidators); *Richards* v. *Kidderminster Overseers*, [1896] 2 Ch. 212 (Receiver appointed by debenture-holders); *In re British Fullers' Earth Co., Ltd.* (1901), 17 T. L. R. 232 (Receiver appointed in debenture-holders' action).

(*a*) Act of 1908, s. 140.

(*b*) See *In re International, etc., Co., per* BOWEN, L.J., 28 Ch. D., at p. 481; but as to cases where a change of rateable occupation is alleged, *vide supra*, pp. 64, 65.

(*c*) 46 & 47 Vict. c. 52, s. 122 (5).

(*d*) *R.* v. *Curzon* (1882), 47 J. P. 37; see *In re Wearmouth Crown Glass Co.* (1882), 19 Ch. D. 640, at p. 642. The decision to the contrary in *Dent* v. *Commondale Overseers* (1891), 55 J. P. 805, is, it is submitted, incorrect.

APPENDIX I

STATUTES

SUMMARY

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[NOTE.—This Appendix contains statutory enactments germane to matters dealt with in the text; and is not intended to set out the whole of the unrepealed parts of any of the above statutes. As to repeals by the Act of 1925, see Repeals, etc., Order, 1927, in Appendix II.]

THE POOR RELIEF ACT, 1601.

(43 Eliz. c. 2.)

An Act for the Relief of the Poor.

Be it enacted by the authority of this present Parliament that . . . [the overseers] . . . shall take order from time to time, . . . to raise weekly or otherwise, by taxation of every inhabitant parson vicar and other, and of every occupier of lands houses tithes impropriate or propriations of tithes, coal mines . . . (*a*), in the said parish in such competent sum and sums of money as they shall think fit, a convenient stock . . . to set the poor on work ; and also competent sums of money for and towards the necessary relief of the lame impotent old blind and such other among them being poor and not able to work, . . . and to do and execute all other things as well for the disposing of the said stock as otherwise concerning the premises as to them shall seem convenient : . . .

2. . . . And that it shall be lawful as well for the present as subsequent . . . overseers . . . by warrant from any two such justices of peace as is aforesaid, to levy as well the said sums of money, and all arrearages, of every one that shall refuse to contribute according as they shall be assessed, by distress and sale of the offenders' goods, as the sums of money or stock which shall be behind upon any accompt to be made as aforesaid, rendering to the parties the overplus . . . (*b*) :

* * * * * *

5. Provided always, that if any person or persons shall find themselves grieved with any sess or tax or other act done by the said churchwardens and other persons, or by the said justices of peace, that then it shall be lawful for the justices of peace at their general quarter sessions, or the greater number of them, to take such order therein as to them shall be thought convenient, and the same to conclude and bind all the said parties.

* * * * * *

7. And . . . the mayors bailiffs or other head officers of every town and place corporate and city within this realm, being justice or justices of peace, shall have the same authority by virtue of this Act within the limits and precincts of their jurisdictions, as well out of sessions as at their sessions, if they hold any, as is hereby limited prescribed and appointed to justices of the peace of the county, or any two

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(*a*) Portion as to saleable underwoods repealed by Rating Act, 1874, s. 14, *infra*.

(*b*) See 12 & 13 Vict. c. 14, s. 2, *infra*.

or more of them, or to the justices of peace in their quarter sessions, to do and execute for all the uses and purposes in this Act prescribed, and no other justice or justices of peace to enter or meddle there ; . . .

8. And . . . if it shall happen any parish to extend itself into more counties than one, or part to lie within the liberties of any city town or place corporate, and part without, that then as well the justices of the peace of every county as also the head officers of such city town or place corporate, shall deal and intermeddle only in so much of the said parish as lieth within their liberties, and not any further ; and every of them respectively within their several limits wards and jurisdictions to execute the ordinances before mentioned, concerning . . the giving warrant to levy taxations unpaid, . .

* * * * * *

THE JUSTICES' JURISDICTION ACT, 1742.

(16 GEO. 2, C. 18.)

An Act to empower Justices of the Peace to act in certain Cases relating to Parishes and Places to the Rates and Taxes of which they are rated or chargeable.

WHEREAS doubts have arisen whether, according to the laws and statutes now in force, his Majesty's justices of the peace may lawfully act in any case relating to the parishes or places to the rates and taxes of which such justices respectively are rated or chargeable : May it please your Majesty that it may be enacted, and be it enacted . . . that it shall and may be lawful to and for all and every justice or justices of the peace, for any county, riding, city, liberty, franchise, borough, or town-corporate within their respective jurisdictions to make, do, and execute all and every act or acts, matter or matters, thing or things appertaining to their office as justice or justices of the peace, so far as the same relates to the laws for the relief, maintenance, and settlement of poor persons, . . . or to any other laws concerning parochial taxes, levies, or rates, notwithstanding any such justice or justices of the peace is or are rated to or chargeable with the taxes, levies, or rates within any such parish, township, or place affected by any such act or acts of such justice or justices as aforesaid.

2. [*Repealed*, 30 & 31 *Vict. c.* 59.]

3. Provided always, . . . that this Act, or any thing therein contained, shall not authorise or empower any justice or justices of the peace for any county or riding at large to act in the determination of any appeal to the quarter sessions for any such county or riding, from any order matter, or thing relating to any such parish, township, or place where such justice or justices of the peace is or are so charged, taxed, or chargeable as aforesaid, any thing herein contained to the contrary in any wise notwithstanding.

THE POOR RELIEF ACT, 1743.

(17 GEO. 2, c. 38.)

An Act for remedying some Defects in the Act made in the Forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the "Poor."

* * * * * *

4. And . . . in case any person or persons shall find him, her, or themselves aggrieved by any rate or assessment made for the relief of the poor, or shall have any material objection to any person or persons being put on or left out of such rate or assessment, or to the sum charged on any person or persons therein, or shall have any material objection to such account as aforesaid, or any part thereof, or shall find him, her, or themselves aggrieved by any neglect, act, or thing done or omitted by the churchwardens and overseers of the poor, or by any of his Majesty's justices of the peace, it shall and may be lawful for such person or persons, in any of the cases aforesaid, giving reasonable notice to the churchwardens or overseers of the poor of the parish, township, or place, to appeal to the next general or quarter sessions of the peace for the county, riding, division, corporation, or franchise where such parish, . . . lies; and the justices of the peace there assembled are hereby authorised and required to receive such appeal, and to hear and finally determine the same; but if it shall appear to the said justices that reasonable notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same; and the said justices may award and order to the party for whom such appeal shall be determined, reasonable costs, in the same manner that they are impowered to do in case of appeals concerning the settlement of poor persons, by an Act made in the eighth and ninth years of King William the Third, intituled "An Act for supplying some defects in the laws for "the relief of the poor of this kingdom."

5. Provided always, that in all corporations or franchises, who have not four justices of the peace, it shall and may be lawful for any person or persons, in any of the cases aforesaid where an appeal is given by this Act, to appeal, if he or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division wherein such corporation or franchise is situate (*c*).

6. And whereas it hath been held, that upon appeals from rates and assessments, the justices of the peace may not only quash the old rates, but make new rates and assessments, from which no appeal can be had: Be it enacted by the authority aforesaid, that upon all appeals from rates and assessments, the justices of the peace (where they shall see just cause to give relief) shall and are hereby required to amend the same, in such manner only as shall be necessary for giving such relief, without altering such rates or assessments with respect to other persons mentioned in the same; but if upon an appeal from the whole rate, it shall be found necessary to quash or set aside the same, then and in every such case the said justices shall and are hereby required to order

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(*c*) "More than six" substituted for "four" except in a city or town, being a county of itself, Poor Law Appeals Act, 1820 (1 Geo. 4, c. 36).

and direct the . . . overseers of the poor to make a new equal rate or assessment, and they are hereby required to make the same accordingly.

7. And for the more effectual levying money assessed for the relief of the poor, be it enacted by the authority aforesaid, that the goods of any person assessed, and refusing to pay, may be levied by warrant of distress, not only in the place for which such assessment was made, but in any other place within the same county or precinct; and if sufficient distress cannot be found within the said county or precinct, on oath made thereof before some justice of any other county or precinct (which oath shall be certified under the hand of such justice on the said warrant) such goods may be levied in such other county or precinct, by virtue of such warrant and certificate; and if any person shall find him or herself aggrieved by such distress as aforesaid, it shall and may be lawful for such person to appeal to the next general or quarter sessions of the peace for the county or precinct where such assessment was made, and the justices there are hereby required to hear and finally determine the same.

8. And to prevent all vexatious actions against overseers of the poor, be it enacted by the authority aforesaid, that where any distress shall be made for any sum or sums of money justly due for the relief of the poor, the distress itself shall not be deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers, on account of any defect or want of form . . . in the rate or assessment, or in the warrant of distress thereupon; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall be afterwards done by the party or parties distraining, but the party or parties aggrieved by such irregularity shall or may recover full satisfaction for the special damage he, she, or they shall have sustained thereby, and no more, in an action of trespass, or on the case, at the election of the plaintiff or plaintiffs.

* * * * * *

11. And . . . in case any person or persons shall refuse or neglect to pay to such overseers as aforesaid any sum or sums of money that he, she, or they shall be legally rated or assessed to, it shall and may be lawful to and for the succeeding overseers and they are hereby required to levy such arrears. . . .

* * * * * *

13. And . . . true and just copies of all rates and assessments hereafter to be made for the relief of the poor, be fairly wrote and entered in a book or books to be provided for that purpose by the churchwardens and overseers of the poor of every parish, township, or place, who shall take care that such copies be wrote and entered accordingly, within fourteen days after all appeals from such rates are determined, and shall attest the same by putting their names thereto; and all and every such book or books shall be carefully preserved by the churchwardens and overseers of the poor for the time being, or one of them, in some public or other place in every such parish, township, or place, whereto all persons assessed, or liable to be assessed, may freely resort, . . . and shall be produced by them at the general or quarter sessions, when any appeal is to be heard or determined.

14. And . . . if any . . . overseer of the poor, or other officer of any parish, . . . shall neglect or refuse to obey and perform the several orders and directions of this Act, or any of them, where no penalty is before provided by this Act, or shall act contrary thereto, every such churchwarden, overseer of the poor, or other officer so offending in the premises, shall for every such offence, on oath thereof made within two calendar months after the offence committed, before any two or more of his Majesty's justices of the peace, forfeit, for the use of the poor of such parish, township, or place, a sum not exceeding five pounds, nor less than twenty shillings, to be levied by distress and sale of the offender's goods, by warrant from such justices, which sum shall be paid to some . . . overseer of the poor of such parish, . . . for the purpose aforesaid.

THE POOR RATE ACT, 1801.

(41 Geo. 3, c. 23.)

An Act for the better Collection of Rates made for the Relief of the Poor.
[18th April 1801.]

Whereas by [17 Geo. 2, c. 38] power was given to justices of the peace, upon appeals from rates and assessments, where they should see just cause to give relief, to amend the same in such manner only as should be necessary for giving such relief, without altering such rates or assessments with respect to other persons mentioned in the same: And whereas the quashing or setting aside of rates or assessments made for the relief of the poor, is attended with great inconvenience; . . . For remedy whereof, . . . be it enacted . . . that from and after the passing of this Act, upon all appeals from any rate or assessment made for the relief of the poor of any parish. . . . the court of general or quarter sessions of the peace shall, and such court is hereby authorised and required (in all cases where they shall see just cause to give relief) to amend such rate or assessment, either by inserting therein or striking out the name or names of any person or persons, or by altering the sum or sums therein charged on any person or persons, or in any other manner which the said court shall think necessary for giving such relief, and without quashing or wholly setting aside such rate or assessment: Provided always, that if the said court shall be of opinion that it is necessary, for the purpose of giving relief to the person or persons appealing, that the rate or assessment should be wholly quashed, then the said court may quash the same; but nevertheless, all and every the sum and sums of money in and by such rate or assessment charged on any person or persons, shall and may be levied and recovered by such ways and means, and in such and the same manner, as if no appeal had been made against such rate or assessment; and all and every the sum and sums of money which any person or persons charged in such rate or assessment shall pay, or which shall be levied upon or recovered from him, her, or them, shall be deemed and taken as payments on account of the next effective rate or rates, assessment or assessments, which shall be made for the relief of the poor of the same parish, . . .

2. And . . . from and after the passing of this Act, all and every the sum and sums of money at which any person or persons is or are

or shall be rated or assessed, in any rate or assessment made for the relief of the poor of any parish, . . . shall and may be levied and recovered by distress, and all other lawful ways and means, notwithstanding the person or persons so rated or assessed, or any other person or persons, shall have given notice of appeal from or against such rate or assessment, for any cause whatsoever: Provided always, that if any person, rated or assessed in any rate or assessment made for the relief of the poor, shall give such notice of appeal as hereinafter mentioned to the . . . overseers of the poor of any parish, . . . then, from and after the giving of such notice, and until the appeal shall have been heard and determined, no proceedings shall be commenced or carried on to recover any greater sum or sums of money from such person or persons, than the sum or sums at which he, she, or they, or any occupier of the same premises, shall have been rated or assessed in the last effective rate which shall have been collected in such parish, . . .

3. And . . . in case the said court of general or quarter sessions of the peace shall upon appeal order any rate or assessment for the relief of the poor to be quashed, it shall be lawful for the said court to order that any sum or sums of money, in and by such rate or assessment charged on any person or persons, or any part of any such sum or sums, not to be paid; and then and in every such case no proceedings shall, after making such order, be commenced, or if any proceedings have been previously commenced, such proceedings shall be no further prosecuted or carried on for the purpose of levying or enforcing the payment of any sum or sums which shall be so ordered by the said court not to be paid as aforesaid: Provided always, that no justice of the peace, constable, or other officer of the peace or other person shall be deemed a trespasser, or liable to any action, for any warrant, order, act, or thing which such justice, constable, or other officer or person shall have granted, made, executed, or done for the purpose of levying or enforcing the payment of any such sum or sums of money, before he shall have had notice in writing of the order for the non-payment of such sum or sums of money, which the said court is hereby authorised to make as aforesaid.

4. And . . . from and after the passing of this Act, all notices of appeal from or against any rate or assessment made for the relief of the poor, . . . shall be in writing and shall be signed by the person or persons giving the same, or his, her, or their attorney, on his, her, or their behalf; and such notices of appeal shall be delivered to or left at the places of abode of the churchwardens and overseers of the poor of the parish, . . . and the particular causes or grounds of appeal shall be stated and specified in such notice; and upon the hearing of any appeal from or against any such rate or assessment, or account, the court of general or quarter sessions to which such appeal shall be made, shall not examine or inquire into any other cause or ground of appeal than such as are or is stated and specified in the notice of appeal.

5. Provided nevertheless, . . . that with the consent of the overseers, signified by them or their attorney in open court, and with the consent of any other person interested therein, the said court of sessions may proceed to hear and decide upon such appeal, although no notice thereof shall have been given in writing; and also that with the like consent such court may hear and decide upon grounds of appeal, not stated or misstated in such written notice, where any notice shall have been given in writing.

6. And . . . from and after the passing of this Act, if any person or persons shall appeal against any rate or assessment made for the relief of the poor, because any other person or persons is or are rated or assessed in such rate or assessment, or is or are omitted to be rated or assessed therein, or because any other person or persons is or are rated or assessed in any such rate or assessment at any greater or less sum or sums of money than the sum or sums at which he, she, or they ought to be rated or assessed therein, or for any other cause that may require any alteration to be made in such rate or assessment with respect to any other person or persons, then and in every such case the person or persons so appealing for the causes aforesaid, or any of them, shall give such notice of appeal, in writing as hereinbefore mentioned, not only to the churchwardens or overseers of the poor, or any two or more of them, but also to the other person or persons so interested or concerned in the event of such appeal as aforesaid; and such other person or persons shall, if he, she, or they shall so desire, be heard upon the said appeal; and it shall be lawful for the court of general or quarter sessions of the peace, on the hearing of such appeal, to order the name or names of such other person or persons to be inserted in such rate or assessment, and him, her, or them to be therein rated and assessed at any sum or sums of money, or to order the name or names of such other person or persons to be struck out of such rate or assessment, or the sum or sums at which he, she, or they is or are rated or assessed therein, to be altered, in such manner as the said court shall think right; and the proper officer of the said court shall forthwith add to or alter the rate or assessment accordingly.

7, 8. (*Recovery and repayment of rates after alteration by quarter sessions.*)

THE POOR RELIEF ACT, 1814.

(54 Geo. 3, c. 170.)

An Act to repeal certain Provisions in Local Acts for the Maintenance and Regulation of the Poor; and to make other Provisions in relation thereto. [30th July 1814.]

12. And . . . the goods and chattels of any person or persons neglecting or refusing to pay any sum or sums of money legally assessed on and due from him, her, or them in respect of any rate for the relief of the poor, . . . of any . . . parish, . . . for the space of seven days after the same shall have been legally demanded of him, her, or them, shall and may be distrained, not only within such . . . parish, . . . but also within any other . . . parish, . . . within the same county, riding, division, or jurisdiction; and if sufficient distress cannot be found within the same county, riding, division, or jurisdiction, then upon oath thereof made before any one or more justice or justices of the peace of any other county, riding, division, or jurisdiction in which any of the goods or chattels of such persons shall be found, which oath such justice or justices are hereby required to administer and certify by indorsing, in his or their respective handwriting, his or their name or names on the warrant granted to make such distress, the goods and chattels of the said person or persons so neglecting or refusing to pay as aforesaid shall be

subject and liable to such distress and sale in such other county, riding, division, or jurisdiction where the same shall be found, and may by virtue of such warrant and certificate be distrained and sold in the same manner as if the same had been found within the . . . parish, . . . in or for which such rate or cess had been made or was due.

THE POOR RATE EXEMPTION ACT, 1833.

(3 & 4 WILL. 4, c. 30.)

An Act to exempt from Poor and Church Rates all Churches, Chapels, and other Places of Religious Worship. [24th July 1833.]

[1.] No person or persons shall be rated or shall be liable to be rated or to pay to any . . . poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting houses, or premises, or such part thereof as shall be exclusively appropriated to public religious worship, and which (other than churches, district churches, and episcopal chapels of the established church) shall be duly certified for the performance of such religious worship according to the provision of any Act or Acts now in force: Provided always, that no person or persons shall be hereby exempted from any such rates or cesses for or in respect of any parts of such churches, district churches, chapels, meeting houses, or other premises which are not so exclusively appropriated, and from which parts not so exclusively appropriated such person or persons shall receive any rent or rents, or shall derive profit or advantage.

2. Provided always, that no person or persons shall be liable to any such rates or cesses because the said churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor.

THE LIGHTING AND WATCHING ACT, 1833.

(3 & 4 WILL. 4, c. 90.)

An Act to repeal an Act of the Eleventh year of His Majesty King George the Fourth, for the lighting and watching of Parishes in England and Wales, and to make other Provisions in lieu thereof. [28th August 1833.]

* * * * * *

9. The ratepayers of such parish shall at their first meeting or at some adjournment thereof, and so on from time to time in every succeeding year at a meeting to be called for that purpose in manner herein directed, fix and determine the total amount of money which the inspectors shall have power to call for in any one year, in order to carry into effect the provisions of this Act; . . .

* * * * *

33. . . . Provided also, that the total amount of the sum to be collected, raised, and levied for the purposes of this Act within any one year shall not exceed such sum as shall have been agreed on by the inhabitants of the said parish as aforesaid ; . . .

* * * * * *

77. . . . where the word " parish " is used, it shall be understood to extend to any parts within the same ; . . .

THE HIGHWAY ACT, 1835.

(5 & 6 WILL. 4, c. 50.)

An Act to consolidate and amend the Laws relating to highways.
[31st August 1835.]

* * * * * *

27. And in order to raise money for carrying the several purposes of this Act into execution, be it further enacted, that a rate shall be made, assessed, and levied by the surveyor upon all property now liable to be rated and assessed to the relief of the poor ; provided that the same rate shall also extend to such woods, mines, and quarries of stone, or other hereditaments, as have heretofore been usually rated to the highways ; . . .

* * * * * *

33. When property, or the owner or occupier in respect thereof, has, previous to the passing of this Act, been legally exempt from the performance of statute duty, or from the payment of any composition in lieu thereof, or of highway rate, the said property and the owners and occupiers thereof shall be exempt from the payment of the rate hereby imposed.

* * * * * *

THE PARISH NOTICES ACT, 1837 (*d*).

(7 WILL. 4 & 1 VICT. c. 45.)

An Act to alter the Mode of . . . giving Notices on Sundays with respect to various Matters. [12th July 1837.]

1. . . . No proclamation or other public notice for a vestry meeting or any other matter shall be made or given in any church or chapel during or after divine service, or at the door of any church or chapel at the conclusion of divine service.

2. All proclamations or notices, which under or by virtue of any law or statute or by custom or otherwise have been heretofore made or

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(*d*) This Act may also be cited as the Vestries Act, 1837 ; see Short Titles Acts, 1892 and 1896, 55 & 56 Vict. c. 10 ; 59 & 60 Vict. c. 14.

given in churches or chapels during or after divine service, shall be reduced into writing, and copies thereof either in writing or in print, or partly in writing and partly in print, shall, previously to the commencement of divine service on the several days on which such proclamations or notices have heretofore been made or given in the church or chapel of any parish or place, or at the door of any church or chapel, be affixed on or near to the doors of all the churches and chapels within such parish or place; and such notices when so affixed shall be in lieu of and as a substitution for the several proclamations and notices so heretofore given as aforesaid, and shall be good, valid, and effectual to all intents and purposes whatsoever (*e*).

THE POOR RATE EXEMPTION ACT, 1840.

(3 & 4 VICT. C. 89.)

An Act to exempt . . . Inhabitants of Parishes, Townships, and Villages from Liability to be rated as such, in respect of Stock-in-Trade or other Property, to the Relief of the Poor. [10th August 1840.]

1. It shall not be lawful for the overseers of any parish, . . . to tax any inhabitant thereof, as such inhabitant, in respect of his ability derived from the profits of stock-in-trade or any other property, for or towards the relief of the poor: Provided always, that nothing in this, Act contained shall in anywise affect the liability of any parson or vicar, or of any occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods, to be taxed under the provisions of the said Acts for and towards the relief of the poor (*f*).

* * * * * *

THE SCIENTIFIC SOCIETIES ACT, 1843.

(6 & 7 VICT. C. 36.)

An Act to exempt from County, Borough, Parochial, and other local Rates, Land and Buildings occupied by Scientific or Literary Societies. [28th July 1843.]

1. No person or persons shall be assessed or rated, or liable to be assessed or rated, or liable to pay, to any county, borough, parochial, or other local rates or cesses, in respect of any land, houses, or buildings, or parts of houses, or buildings, belonging to any society instituted for purposes of science, literature, or the fine arts exclusively, either as tenant or as owner, and occupied by it for the transaction of its business, and for carrying into effect its purposes, provided that such society shall be supported wholly or in part by annual voluntary contributions,

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(*e*) See s. 6 of the Act of 1925.

(*f*) This enactment is made permanent by the Expiring Laws Continuance Act, 1922 (12 & 13 Geo. 5, c. 50), s. 1 and 1st Sched.

and shall not, and by its laws may not, make any dividend, gift, division, or bonus in money unto or between any of its members, and provided also that such society shall obtain the certificate of the barrister-at-law or lord advocate, as hereinafter mentioned.

2. Provided always, that before any society shall be entitled to the benefit of this Act such Society shall cause three copies of all laws, rules, and regulations for the management thereof, signed by the president or other chief officer and three members of the council or committee of management and countersigned by the clerk or secretary of such society, to be submitted . . . to the barrister-at-law for the time being appointed to certify the rules of friendly societies (*g*) . . . for the purpose of ascertaining whether such society is entitled to the benefit of this Act; and such barrister . . . shall give a certificate on each of the said copies that the society so applying is entitled to the benefit of this Act, or shall state in writing the grounds on which such certificate is withheld; and one of such copies, when certified by such barrister . . . shall be returned to the society, another copy shall be retained by such barrister . . . and the other of such copies shall be transmitted by such barrister . . . to the clerk of the peace for the borough or county where the land or buildings of such society in respect of which such exemption is claimed shall be situated, and shall by him be laid before the recorder or justices for such borough or county at the general quarter sessions, or adjournment thereof, held next after the time when such copy shall have been so certified and transmitted to him as aforesaid and the recorder or justices then and there present are hereby authorised and required, without motion, to allow and confirm the same; and such copy shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody, without fee or reward.

3. If the laws, rules, and regulations of any such society shall be altered, so as to affect or relate to the property or constitution of such society, such alterations shall, within one calendar month after the same shall have been made, be submitted to such barrister . . . and such barrister . . . shall certify as aforesaid; and such rules, when so certified, shall be filed with the clerk of the peace as aforesaid; and in the meantime such society shall be entitled to the benefit of this Act, as if no such alterations had been made; Provided always, that if the said barrister . . . shall refuse to certify, that then, subject to such appeal as is hereinafter provided, the said society shall cease to be entitled to the benefit of this Act from the time when such alterations shall come into operation.

4. Provided always, that the fee payable to such barrister . . . for perusing the laws, rules, and regulations of each society, or the alterations made therein, and giving such certificate or statement as aforesaid, shall not at any one time exceed the sum of one guinea, which, together with the expense of transmitting the rules to and from the said barrister . . . shall be defrayed by each society respectively.

5. Provided always, that in case any such barrister . . . shall refuse to certify that any such society is entitled to the benefit of this Act, it shall then be lawful for any such society to submit the laws, rules, and regulations thereof to the court of quarter sessions for the borough or

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(*g*) See Friendly Societies Act, 1896, 59 & 60 Vict. c. 25, ss. 1, 2.

county where the land or buildings of the society shall be situated, together with the reasons so assigned by the said barrister . . . as aforesaid; and the recorder or justices at such quarter sessions shall and may, if he or they think fit, order the same rules to be filed, notwithstanding such refusal as aforesaid; and such filing shall have the same effect as if the said barrister . . . had certified as aforesaid.

6. Provided also, that any person or persons assessed to any rate from which any society shall be exempted by this Act may appeal from the decision of the said barrister . . . in granting such certificate as aforesaid to the said court of quarter sessions within four calendar months next after the first assessment of such rate made after such certificate shall have been filed as aforesaid, or within four calendar months next after the first assessment of such rate made after such exemption shall have been claimed by such society, such appellant first giving to the clerk or secretary of the society in question, twenty-one days previously to the sitting of the said court, notice in writing of his intention to bring such appeal, together with a statement in writing of the grounds thereof, and within four days after such notice entering into a recognisance before some justice, with two sufficient sureties, to try such appeal at and abide the order of and pay such costs as shall be awarded by the recorder or justices at such quarter sessions; and at such quarter sessions such recorder or justices shall, on its being proved that such notice and statement have been given as aforesaid, proceed to hear such appeal, according to the grounds set forth in such statement, and not otherwise, and, if the certificate of the said barrister . . . shall appear to him or them to have been granted contrary to the provisions of this Act, shall and may annul the same, and shall and may, according to their discretion, award such costs to the party appealing or appealed against as he or they shall think proper, and his or their determination concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

THE LANDS CLAUSES CONSOLIDATION ACT, 1845.

(8 & 9 VICT. c. 18.)

An Act for consolidating in One Act certain provisions usually inserted in Acts authorising the taking of Lands for Undertakings of a public Nature. [8th May 1845.]

133. If the promoters of the undertaking became possessed by virtue of this or the special Act of any lands . . . liable to be assessed to the poor's rate, they shall from time to time, until the works shall be completed and assessed to such . . . poor's rate be liable to make good the deficiency in the several assessments for . . . poor's rate by reason of such lands having been taken or used for the purposes of the works; and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act; and on demand of such deficiency, the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively (*h*).

(*h*) To be read with Rating and Valuation Act, 1925, s. 2 (7), *infra*.

THE DISTRESS FOR RATES ACT, 1849.

(12 & 13 VICT. C. 14.)

An Act to enable Overseers of the Poor . . . to recover the Costs of Distraining for Rates. [11th May 1849.]

1. It shall be lawful hereafter for all justices of the peace, if in their discretion they shall so think fit, in any warrant of distress they shall make and issue for the levying of any sum or sums to which any person or persons is or are now or may hereafter be rated or assessed in or by any rate or assessment for the relief of the poor, . . . or in any warrant for the levying of any arrears of the same, to order that a sum, such as they may deem reasonable, for the costs and expenses which such overseers or surveyors, or the persons applying for such warrant, shall have incurred in obtaining the same, shall also be levied of the goods and chattels of the person or persons against whom such warrant shall be granted, together with the reasonable charges of the taking, keeping, and selling of the said distress.

2. [*Recital of* 43 *Eliz. c.* 2, *s.* 2) . . . when to any warrant of distress for the levying of any sum or sums to which any person or persons may hereafter be rated or assessed in or by any rate or assessment hereinbefore mentioned it shall be returned by the constable or person having the execution of such warrant that he could find no goods or chattels, or no sufficient goods or chattels, whereon to levy such sum or sums, together with the costs of or occasioned by the levying of the same, it shall be lawful for any two or more justices of the peace before whom the same shall be returned, or for any two or more justices of the peace for the same county, riding, division, liberty, city, borough, or place, if in their discretion they shall so think fit, to issue their warrant of commitment against the person with relation to whom such return shall be so made as aforesaid, in the Form (D) in the schedule to this Act annexed, or in any form to the like effect, and thereby order such person to be imprisoned in the common gaol or house of correction for any time not exceeding three calendar months, unless the sum or sums therein mentioned shall be sooner paid; and every such warrant of commitment made or issued for default of distress as aforesaid shall be made as well for the non-payment of the costs and expenses so as aforesaid incurred in obtaining such warrant of distress, if the same shall be so ordered as aforesaid, and the costs attending the said distress, and also the costs and charges of taking and conveying the party to prison (the amount of such several costs, expenses, and charges being stated in such warrant of commitment), as for the non-payment of the sum or sums alleged to be due for the said rates respectively.

3. For the saving of expense in the levying of any sum or sums for rate and costs as aforesaid it shall be lawful to make and issue one warrant of distress against any number of persons neglecting or refusing to pay the same, in the form in the schedule to this Act annexed; but nothing herein shall be deemed or construed to authorise justices in like manner to grant or issue one warrant of commitment against several persons in default of distress as aforesaid.

4. The warrants aforesaid may be directed to the . . . overseers of the poor, . . . and to the constable of the parish or township, and

to any other person or persons, or to any one or more of them, as by the justices granting the same shall be deemed fit.

5. Every summons to be issued against any person for non-payment of any sum for which he or she is or shall be so rated or assessed as aforesaid shall be directed to such person, and may be in the Form (B) in the schedule to this Act annexed, or in any form to the like effect; and the same may be served by any . . . overseer of the poor, . . . or constable or other person, to whom it shall be delivered for that purpose, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him or her at his or her last place of abode; and the person who shall serve the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of the said summons; and if upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justices then present that such summons was duly served as aforesaid a reasonable time before the time so appointed for his or her appearance as aforesaid, it shall be lawful for such justices of the peace, in their discretion, if they shall so think fit, to proceed *ex parte*, in the same manner, to all intents and purposes, as if such party had personally appeared before them in obedience to the said summons.

6. In all cases where any proceedings shall be taken to compel payment of any sum for which any such person shall be so rated or assessed as aforesaid, if at any time before such person shall be committed to and lodged in prison for non-payment thereof, or for or by reason of its being returned to such warrant of distress as aforesaid that there are no goods or chattels or no sufficient goods or chattels of such person whereon the same may be levied as aforesaid, such person shall pay or tender to the churchwardens or overseers of the poor, or any of them, or to the surveyor of highways, respectively, or other person authorised to collect or receive such rate, the sum so sought to be recovered, together with the amount of all costs and expenses up to that time incurred in the proceedings so taken to compel payment thereof as aforesaid, then and in every such case the person to whom such sum and costs shall be so paid or tendered shall receive the same, and thereupon no further proceedings for the recovery of the same shall be had or taken.

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SCHEDULE.

[FORMS.]

A1. *Complaint against One Ratepayer.*
A2. *Complaint against Several Ratepayers.*
B. *Summons upon the Complaint.*
C1. *Warrant of Distress against One Ratepayer.*
C2. *Warrant of Distress against Several Ratepayers.*
D. *Warrant of Commitment in Default of Distress.*

THE QUARTER SESSIONS ACT, 1849.

(12 & 13 Vict. c. 45.)

An Act to amend the Procedure in Courts of Quarter Sessions in England and Wales, and for the better Advancement of Justice in Cases within the Jurisdiction of these Courts. [28th July 1849.]

[1.] In every case of appeal (except as hereinafter mentioned) to any court of quarter sessions fourteen clear days' notice of appeal at least shall be given, and such shall be sufficient notice, any Act or Acts, or any rule or practice of any court or courts, to the contrary notwithstanding; and such notice of appeal shall be in writing, signed by the person or persons giving the same, or by his, her, or their attorney on his, her, or their behalf, and the grounds of appeal shall be specified in every such notice: Provided always, that it shall not be lawful for the appellant or appellants, on the trial of any such appeal, to go into or give evidence of any ground of appeal besides those set forth in such notice.

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3. [*Recital.*] Upon the hearing of any appeal to any court of quarter sessions no objection on account of any defect in the form of setting forth any ground of appeal shall be allowed, and no objection to the reception of legal evidence offered in support of any ground of appeal shall prevail, unless the court shall be of opinion that such ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial: Provided always, that in all cases where the court shall be of opinion that any objection to any ground of appeal, or to the reception of evidence in support thereof, ought to prevail, it shall be lawful for such court, if it shall so think fit, to cause any such ground of appeal to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to such court shall appear just and reasonable.

4. If in any notice of appeal the appellant or appellants shall have included any ground or grounds of appeal which shall in the opinion of the court determining the appeal be frivolous or vexatious, such appellant or appellants shall be liable, if the court shall so think fit, to pay the whole or any part of the costs incurred by the respondent or respondents in disputing any such ground or grounds of appeal, such costs to be recoverable in the manner hereinafter directed as to the other costs incurred by reason of such appeal.

5. Upon any appeal to any court of quarter sessions the court before whom the same shall be brought may, if it think fit, order and direct the party or parties against whom the same shall be decided to pay to the other party or parties such costs and charges as may to such court appear just and reasonable, such costs to be recoverable in the manner provided for the recovery of costs upon an appeal against an order or conviction by the Summary Jurisdiction Act, 1848.

6. And for the more effectual prevention of frivolous appeals, any court of quarter sessions, upon proof of notice of any appeal to the same

court having been given to the party or parties entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if it so think fit, at the same sessions for which such notice was given, order to the party or parties receiving the same such costs and charges as by the said court shall be thought reasonable and just, to be paid by the party or parties giving such notice, such costs to be recoverable in the manner last aforesaid.

7. [*Recital.*] If upon the trial of any appeal to any court of quarter sessions against any order or judgment made or given by any justice or justices of the peace or if upon the return to any writ of certiorari any objection shall be made on account of any omission or mistake in the drawing up of such order or judgment, and it shall be shown to the satisfaction of the court that sufficient grounds were in proof before the justice or justices making such order or giving such judgment to have authorised the drawing up thereof free from the said omission or mistake, it shall be lawful for the court, upon such terms as to payment of costs as it shall think fit, to amend such order or judgment, and to adjudicate thereupon as if no such omission or mistake had existed: Provided always, that no objection on account of any omission or mistake in any such order or judgment brought up upon a return to a writ of certiorari shall be allowed, unless such omission or mistake shall have been specified in the rule for issuing such certiorari.

8. [*Recital.*] Where any recognisance or recognisances which shall have been entered into within the time by law required before any justice or justices for the purpose of complying with any such condition of appeal shall appear to the court before which such appeal is brought to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such court, if it shall so think fit, to permit the substitution of a new and sufficient recognisance or new and sufficient recognisances to be entered into before such court in the place of such insufficient, defective, or invalid recognisance or recognisances, and for that purpose to allow such time, and make such examination, and impose such terms as to payment of costs to the respondent or respondents, as to such court shall appear just and reasonable; and such substituted recognisance or recognisances shall be as valid and effectual to all intents and purposes as if the same had been duly entered into at any earlier time or times, as required by any statute or statutes for that purpose.

9. The decisions of the court of quarter sessions upon the hearing of any appeal, and as to the sufficiency of the statement of any ground or grounds of appeal, and as to the amending or refusing to amend any order or judgment of a justice or justices appealed against, or the statement of any ground or grounds of appeal, and as to the substitution of any new recognisance or recognisances as aforesaid, shall be final, and shall not be liable to be reviewed in any court, by means of a writ of certiorari or mandamus, or otherwise.

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11. At any time after notice given of appeal to any court of quarter sessions against any judgment, order, rate, or other matter, . . . for which the remedy is by such appeal, it shall be lawful for the parties, by consent, and by order of any judge of one of the superior courts of common law at Westminster, to state the facts of the case in the form of a special case for the opinion of such superior court, and to agree

that a judgment in conformity with the decision of such court, and for such costs as such court shall adjudge, may be entered on motion by either party at the sessions next or next but one after such decision shall have been given; and such judgment shall and may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the court of quarter sessions upon an appeal duly entered and continued.

12. [*Recital of* 9 *Will.* 3, *c.* 15, *as to arbitrations.*] At any time after notice given of appeal to any court of quarter sessions against any order, rate, or other matter, . . . for which the remedy is by such appeal, it shall be lawful for the parties, by themselves or their attornies, and by order of a judge of her Majesty's Court of Queen's Bench, to submit the matter or matters of such appeal to the award or umpirage of any person or persons . . . and every award or umpirage duly made under this Act shall be as binding and effectual to all intents as if the same had been a regular judgment of the said court of quarter sessions, and shall and may, on the application of either party, be enrolled among the records of the said court of sessions.

13. It shall be lawful for any court of quarter sessions before which any appeal . . . shall be brought, to order, with consent of the parties or their attornies, that the matter or matters of such appeal be referred to arbitration, to such person or persons and in such manner and on such terms as the said court shall think reasonable and proper; . . . and the award of the arbitrator or arbitrators, or umpirage of the umpire, may, on motion by either party at the sessions next or next but one after such award or umpirage shall have been finally made and published, or after the decision of the Court of Queen's Bench on any motion for setting aside the same, be entered as the judgment of the court of quarter sessions in the appeal, and shall be as binding and effectual to all intents as if given by the said court.

14. If upon any reference to arbitration under this Act it shall be made to appear to the Court of Queen's Bench that either from the death of the arbitrator or arbitrators or umpire, or from any other cause, it has become impossible that an award or umpirage can be made, it shall be lawful for the said court to order the court of quarter sessions to enter continuances and hear the appeal.

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18. In all cases where any order shall be made by any court of quarter sessions, it shall be lawful for the Court of Queen's Bench, or for any judge of that court at chambers, upon the application of any person entitled to enforce such order, and upon the production of a copy of such order under the hand of the clerk of the peace or his deputy, and upon proof of refusal or neglect to obey such order, to order and direct such order of the court of quarter sessions to be removed into the said Court of Queen's Bench, and thereupon such order shall be of the same force and effect, and may be enforced in the same manner, as a rule made by the said Court of Queen's Bench; and all the reasonable costs and charges attendant upon such application and removal shall be recoverable in like manner as if the same were part of such order.

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THE BURIAL ACT, 1855.

(18 & 19 VICT. C. 128.)

An Act further to amend the laws concerning the Burial of the Dead.
[14th August 1855.]

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15. No land already or to be hereafter purchased or acquired, under the provisions of any of the Acts hereinbefore recited, for the purpose of a burial ground (with or without any building erected or to be erected thereon), shall while used for such purposes be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition.

THE POOR RATES RECOVERY ACT, 1862.

(25 & 26 VICT. C. 82.)

An Act for the more economical Recovery of Poor Rates and other Local Rates and Taxes. [7th August 1862.]

1. Where any number of local rates and taxes, whether of the same or of different kinds, are due from the same person, the rates and taxes so due may be included in the same information, complaint, summons, order, warrant, or other document required by law to be laid before justices or to be issued by justices ; and every such document as aforesaid shall, as respects each rate or tax comprised in it, be construed as a separate document ; and its invalidity as respects any one rate or tax shall not affect its validity as respects any other rate or tax comprised in it :

No costs shall be allowed in respect of several informations, complaints, summonses, orders, warrants, or other such documents as aforesaid, in cases where, in the opinion of the justices or court having jurisdiction over the said costs, one information, complaint, summons, order, warrant, or other document as aforesaid might have sufficed, regard being had to the provisions of this Act.

THE UNION ASSESSMENT COMMITTEE AMENDMENT ACT, 1864.

(27 & 28 VICT. C. 39.)

An Act to Amend the Union Assessment Committee Act, 1862.
[14th July 1864.]

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6. No justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any quarter or special sessions by reason of such justice being rated, or being liable to be rated, in some other parish in the union than that for which the rate appealed against is made.

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THE TELEGRAPH ACT, 1868.

(31 & 32 VICT. c. 110.)

An Act to enable Her Majesty's Postmaster-General to acquire, work, and maintain Electric Telegraphs. [31st July 1868.]

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22. All land, property, and undertakings purchased or acquired by the Postmaster-General under this Act shall be assessable and rateable in respect to local, municipal, and parochial rates, assessments, and charges at sums not exceeding the rateable value at which such land, property, and undertakings were properly assessed or assessable at the time of such purchase or acquisition.

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THE POOR LAW AMENDMENT ACT, 1868.

(31 & 32 VICT. c. 122.)

An Act to make further Amendments in the Laws for the Relief of the Poor in England and Wales. [31st July 1868.]

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27. Every place which was or is reputed to be extra-parochial, whether entered by name in the report upon the census for the year one thousand eight hundred and fifty-one or not, for which an overseer has not been then appointed, or for which no overseer shall be then acting, or which has not been then annexed to and incorporated with an adjoining parish, shall for all civil parochial purposes be annexed to and incorporated with the next adjoining parish with which it has the longest common boundary, and in case there shall be two or more parishes with which it shall have boundaries of equal extent, then with that parish which now contains the lowest amount of rateable value; and every accretion from the sea, whether natural or artificial, and the part of the seashore to the low-water mark, and the bank of every river to the middle of the stream, which on the twenty-fifth day of December next shall not be included within the boundaries of or annexed to and incorporated with any parish, shall for the same purposes be annexed to and incorporated with the parish to which such accretion, part, or bank adjoins, in proportion to the extent of the common boundary.

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THE SUNDAY AND RAGGED SCHOOLS (EXEMPTION FROM RATING) ACT, 1869.

(32 & 33 VICT. c. 40.)

An Act to exempt from rating Sunday and Ragged Schools. [26th July 1869.]

1. Every authority having power to impose or levy any rate upon the occupier of any building or part of a building used exclusively as a

Sunday School or Ragged School may exempt such building or part of a building from any rate for any purpose whatever which such authority has power to impose or levy: Provided that nothing in this Act contained shall prejudice or affect the right of exemption from rating of Sunday or Infant Schools, or for the charitable education of the poor in any churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, by virtue of the Poor Rate Exemption Act, 1833.

2. A "Sunday School" shall mean any school used for giving religious education gratuitously to children and young persons on Sunday, and on week days for the holding of classes and meetings in furtherance of the same object, and without pecuniary profit being derived therefrom.

A "Ragged School" shall mean any school used for the gratuitous education of children and young persons of the poorest classes, and for the holding of classes and meetings in furtherance of the same object, and without any pecuniary benefit being derived therefrom except to the teacher or teachers employed.

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4. This Act may be cited as "The Sunday and Ragged Schools (Exemption from Rating) Act, 1869."

THE POOR RATE ASSESSMENT AND COLLECTION ACT, 1869.

(32 & 33 VICT. C. 41.)

An Act for amending the Law with respect to the rating of Occupiers for short terms, and the making and collecting of the Poor's Rate.

[26th July 1869.]

1. The occupier of any rateable hereditament let to him for a term not exceeding three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditament from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid.

2. No such occupier shall be compelled to pay the overseers at one time or within four weeks a greater amount of the rate than would be due for one quarter of the year.

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7. Every payment of a rate by the occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, and every payment of a rate by the owner, whether he is himself rated instead of the occupier, or has agreed with the occupier or with the overseers to pay such rate, and notwithstanding any allowance or deduction which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of

any qualification or franchise which as regards rating depends upon the payment of the poor rate (*i*).

8. Where an owner who has undertaken, whether by agreement with the occupier or with the overseers, to pay the poor rates, or has otherwise become liable to pay the same, omits or neglects to pay any such rate, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid.

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12. Notwithstanding the owner of any such rateable hereditament as aforesaid has become liable for payment of the poor rates assessed thereon, the goods and chattels of the occupier shall be liable to be distrained and sold for payment of such rates as may accrue during his occupation of the premises, at any time whilst such rates remain unpaid by the owner, subject to the following provisions :

1. That no such distress shall be levied unless the rate has been demanded in writing by the overseers from the occupier, and the occupier has failed to pay the same within fourteen days after the service of such demand :
2. That no greater sum shall be raised by such distress than shall at the time of making the same be actually due from the occupier for rent of the premises on which the distress is made :
3. That any such occupier shall be entitled to deduct the amount of rates for which such distraint is made, and the expense of distraint, from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate and expenses paid.

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15. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instalments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies.

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18. The production of the book purporting to contain a poor rate . . . shall, if the rate is made in the form prescribed by law, be *primâ facie* evidence of the due making and publication of such rate.

19. The overseers in making out the poor rate shall, in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, enter in the occupiers column of the rate book the name of the occupier of every rateable hereditament, and such occupier shall be deemed to be duly rated for any qualification or franchise as aforesaid ; and if any overseer negligently or wilfully and without reasonable cause omits the name of the occupier of any rateable hereditament, from the rate or negligently or wilfully misstates any name therein, such overseer shall for every

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(*i*) S. 7 and s. 19 are repealed, " so far as it relates to franchise, and any disqualification which depends on franchise ; " Representation of the People Act, 1918 (8 Geo. 5, c. 64), s. 47, and 8th Sched.

such omission or misstatement be liable on summary conviction to a penalty not exceeding two pounds ; provided, that any occupier whose name has been omitted shall, notwithstanding such omission and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted (*k*).

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THE RATING ACT, 1874.

(37 & 38 VICT. C. 54.)

An Act to amend the Law respecting the Liability and Valuation of certain Property for the purpose of Rates. [7th August 1874.]

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3. Whereas by the Act of the forty-third year of the reign of Queen Elizabeth, chapter two, . . . it is provided that a poor rate shall be raised in every parish by taxation of, amongst other persons, every occupier of certain hereditaments in such parish ; and it is expedient to extend the said Act, and the Acts amending the same (which Act and Acts are in this Act referred to as the Poor Rate Acts), to hereditaments other than those mentioned in the said Act : Be it therefore enacted that,—

From and after the commencement of this Act the Poor Rate Acts shall extend to the following hereditaments in like manner as if they were mentioned in the recited Act of the forty-third year of the reign of Queen Elizabeth ; that is to say,

(1) To land used for a plantation or a wood or for the growth of saleable underwood, and not subject to any right of common ;
(2) To rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing, when severed from the occupation of the land ; and
(3) To mines of every kind not mentioned in the recited Act.

4. The gross and rateable value of any land used for a plantation or a wood, or for the growth of saleable underwood, shall be estimated as follows :

(*a*) If the land is used only for a plantation or a wood, the value shall be estimated as if the land instead of being a plantation or a wood were let and occupied in its natural and unimproved state :
(*b*) If the land is used for the growth of saleable underwood, the value shall be estimated as if the land were let for that purpose ;
(*c*) If the land is used both for a plantation or a wood, and for the growth of saleable underwood, the value shall be estimated either as if the land were used only for a plantation or a wood, or as if the land were used only for the growth of the saleable underwood growing thereon, as the assessment committee may determine.

(*k*) S. 7 and s. 19 are repealed, " so far as it relates to franchise, and any disqualification which depends on franchise " ; Representation of the People Act, 1918 (8 Geo. 5, c. 61), s. 47, and 8th Sched.

5. Where the rateable value of any land used for a plantation or a wood, or both for a plantation or wood and for the growth of saleable underwood, is increased by reason of the same being estimated in accordance with this Act, the occupier of that land under any lease or agreement made before the commencement of this Act, may, during the continuance of the lease or agreement, deduct from his rent any poor or other local rate, or any portion thereof, which is paid by him in respect of such increase of rateable value, and every assessment committee, on the application of such occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

6.—(1) Where any right of fowling or of shooting or of taking or killing game or rabbits, or of fishing (hereinafter referred to as a right of sporting) is severed from the occupation of the land and is not let, and the owner of such right receives rent for the land, the said right shall not be separately valued or rated, but the gross and rateable value of the land shall be estimated as if the said right were not severed ; and in such case if the rateable value is increased by reason of its being so estimated, but not otherwise, the occupier of the land may (unless he has specifically contracted to pay such rate in the event of an increase) deduct from his rent such portion of any poor or other local rate, as is paid by him in respect of such increase ; and every assessment committee, on the application of the occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

(2) Where any right of sporting, when severed from the occupation of the land is let, either the owner or the lessee thereof, according as the persons making the rate determine, may be rated as the occupier thereof.

(3) Subject to the foregoing provisions of this section the owner of any right of sporting, when severed from the occupation of the land, may be rated as the occupier thereof.

(4) For the purposes of this section, the person who, if the right of sporting is not let, is entitled to exercise the right, or who, if the right is let, is entitled to receive the rent for the same, shall be deemed to be the owner of the right.

7. Where a tin, lead, or copper mine is occupied under a lease or leases granted without fine on a reservation wholly or partly of dues or rent, the gross value of the mine shall be taken to be the annual amount of the whole of the dues payable in respect thereof during the year ending on the thirty-first day of December preceding the date at which the valuation list is made, in addition to the annual amount of any fixed rent reserved for the same which may not be paid or satisfied by such dues.

The rateable annual value of such mine shall be the same as the gross value thereof, except that where the person receiving the dues or rent is liable for repairs, insurance, or other expenses necessary to maintain the mine in a state to command the annual amount of dues or rent, the average annual cost of the repairs, insurance, and other expenses for which he is so liable, shall be deducted from the gross value for the purpose of calculating the rateable value.

In the following cases, namely,—

(1) Where any such mine is occupied under a lease granted wholly or partly on a fine ; and

(2) Where any such mine is occupied and worked by the owner ; and

(3) In the case of any other such mine which is not excepted from the provisions of this Act and to which the foregoing provisions of this section do not apply ;

the gross and rateable annual value of the mine shall be taken to be the annual amount of the dues or dues and rent at which the mine might be reasonably expected to let without fine on a lease of the ordinary duration, according to the usage of the country, if the tenant undertook to pay all tenant's rates and taxes and tithe rentcharge, and also the repairs, insurance, and other expenses necessary to maintain the mine in a state to command such annual amount of dues or dues and rent.

The purser, secretary, and chief managing agent for the time being of any tin, lead, or copper mine, or any of them, may, if the overseers or other rating authority think fit, be rated as the occupier thereof.

In this section—

The term " mine," when a mine is occupied under a lease, includes the underground workings, and the engines, machinery, workshops, tramways, and other plant, buildings (not being dwelling-houses), and works and surface of land occupied in connexion with and for the purposes of the mine, and situate within the boundaries of the land comprised in the lease or leases under which the dues or dues and rent are payable or reserved :

The term " dues " means dues, royalty, or toll, either in money or partly in money and partly in kind ; and the amount of dues which are reserved in kind means the value of such dues :

The term " lease," means lease or sett, or licence to work, or agreement for a lease or sett, or licence to work :

The term " fine " means fine, premium, or foregift, or other payment or consideration in the nature thereof.

8. Where any poor or other local rate which at the commencement of this Act any lessee, licensee, or grantee of a mine is exempt from being rated to in respect of such mine, becomes payable by him in respect of such mine during the continuance of his lease, grant, or licence, or before the arrival of the period at which the amount of the rent, royalty, or dues is liable to revision or re-adjustment, he may (unless he has specifically contracted to pay such rate in the event of the abolition of the said exemption) deduct from any rent, royalty, or dues payable by him one half of any such rate paid by him :

Provided that he shall not deduct any sum exceeding what one half of the rate in the pound of such poor or other local rate would amount to if calculated upon the rent, royalty, or dues so payable by him.

9. Where any occupier, lessee, licensee, grantee or other person is authorised by this Act to deduct any rate or sum in respect of a rate from any rent, royalty, or dues payable by him, then—

(1) Any payment so authorised to be deducted shall be a good discharge for such amount of rent, royalty, or dues as is equal to the amount of such payment, and shall be allowed accordingly.

(2) Any payment so authorised to be deducted may be recovered as an ordinary debt from the person to whom the rent, royalty, or dues, may be payable.

(3) The person receiving the rent, royalty, or dues shall have the same right of appeal and objection with reference to the rate and to the valuation of the hereditament in respect of which

the rate is payable as he would have if he were the occupier of such hereditament.

* * * * * *

13. Nothing in this Act shall apply to a mine of which the royalty or dues are for the time being wholly reserved in kind, or to the owner or occupier thereof.

* * * * * *

THE PUBLIC HEALTH ACT, 1875.

(38 & 39 Vict. c. 55.)

An Act for consolidating and amending the Acts relating to Public Health in England. [11th August 1875.]

* * * * * *

200. Every urban authority may from time to time appoint out of their own number so many persons as they may think fit, for any purposes of this Act which in the opinion of such authority would be better regulated and managed by means of a committee: Provided that a committee so appointed shall in no case be authorised to . . . make any rate . . .; and shall be subject to any regulations and restrictions which may be imposed by the authority that formed it (*l*).

* * * * * *

211.—(1) (c). If within any urban district or part of such district any kind of property is exempted from rating by any local Act in respect of all or any of the purposes for which general district rates may be made under this Act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies (but not further or otherwise), be exempt from assessment to any general district rates under this Act unless the Local Government Board by provisional order otherwise direct.

* * * * * *

(4) The urban authority may divide their district or any street therein into parts for all or any of the purposes of this Act, and from time to time abolish or alter any such divisions, and may make a separate assessment on any such part for all or any of the purposes for which the same is formed; and every such part, so far as relates to the purposes in respect of which such separate assessment is made, shall be exempt from any other assessment under this Act: Provided that if any expenses are incurred or to be incurred in respect of two or more parts in common the same shall be apportioned between them in a fair and equitable manner.

* * * * * *

229. . . . Special expenses shall be the expenses of the construction maintenance and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the

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(*l*) This provision applies to borough councils only, Local Government Act, 1894, 2nd Sched.; as to urban and rural district councils, see s. 56 (1) of that Act, *infra*.

expenses of such supply and works are not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

* * * * * *

The following areas situated in a rural district shall be contributory places for the purposes of this Act; that is to say,

(1) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district; and
(2) Every such special drainage district as aforesaid; and
(3) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district; and
(4) In the case of a parish a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district or within any such special drainage district as aforesaid.

THE JURISDICTION IN RATING ACT, 1877.

(40 & 41 VICT. C. 11.)

An Act to make provision with respect to Judicial proceedings in certain cases relating to Rating. [17th May 1877.]

1. No judge shall be incapable of acting in his judicial office in any proceeding, whether commenced before or after the passing of this Act, by reason of his being, as one of several ratepayers, or as one of any other class of persons, liable, in common with others, to contribute to or to be benefited by any rate which may be increased diminished or in any way affected by such proceeding.

* * * * * *

3. In this Act, if not consistent with the context, the following words and expressions have the meanings hereinafter respectively assigned to them; (that is to say,)

"Judge" means—(*m*)

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(*m*) As to the High Court and Court of Appeal, see Supreme Court of Judicature (Consolidation) Act, 1925, s. 17, *infra*.

As to the United Kingdom, any Lord of Appeal, or Peer of Parliament, when sitting and voting in the House of Lords, upon the hearing of any matter brought before that House by way of error, or appeal from any other court.

"Rate" means any rate tax duty or assessment, whether public general or local, and also any fund formed from the proceeds of any such rate tax duty or assessment, or applicable to the same, or like purposes to which any such rate tax duty or assessment might be applied.

* * * * * *

THE RAILWAY AND CANAL TRAFFIC ACT, 1888.

(51 & 52 VICT. C. 25.)

An Act for the better regulation of Railway and Canal Traffic, and for other purposes. [10th August 1888.]

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48. On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements shall be *primâ facie* evidence of the facts therein stated with respect to such receipts or profits: Provided that the person by whom every such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

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55. . . . The term "rating appeal" means an appeal against any valuation list or against any poor rate or any other local rate.

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THE LOCAL GOVERNMENT ACT, 1888.

(51 & 52 VICT. C. 41.)

An Act to amend the laws relating to Local Government in England and Wales, and for other purposes connected therewith. [13th August 1888.]

* * * * * *

3. There shall be transferred to the council of each county . . . the administrative business of the justices of the county in quarter sessions assembled, that is to say, all business done by the quarter sessions or any committee appointed by quarter sessions, in respect of the several matters following, namely,—

(xv) The registration of the rules of scientific societies under the [Scientific Societies Act, 1843] . . .

* * * * * *

80.—(3) . . . An order for the payment of a sum out of the county fund whether on account of capital or income, shall not be made by a county council except in pursuance of a resolution of the council passed on the recommendation of the finance committee and . . . any costs, debt, or liability exceeding fifty pounds shall not be incurred except upon a resolution of the council passed on an estimate submitted by the finance committee.

* * * * * *

82.—(1) A county council appointing . . . any committee may from time to time make, vary, and revoke regulations respecting the quorum and proceedings of such committee . . .; and subject to such regulations the proceedings and quorum and the place of meeting whether within or without the county shall be such as the committee may from time to time direct, and the chairman at any meeting of the committee shall have a second or casting vote.

(2) Every committee shall report its proceedings to the council by whom it was appointed, but to the extent to which the council so direct, the acts and proceedings of the committee shall not be required by the provisions of the Municipal Corporations Act, 1882, to be submitted to the council for their approval.

* * * * * *

THE ADVERTISING STATIONS (RATING) ACT, 1889.

(52 & 53 VICT. C. 27.)

An Act to amend the Law with respect to rating Places used for Advertisements. [12th August 1889.]

WHEREAS difficulties have arisen in relation to the assessment to poor and other rates of land used for exhibition of advertisements and it is expedient to remove the same :

* * * * * *

2. In this Act the term " owner " means the person for the time being receiving or entitled to receive the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive or be entitled to receive the same if such lands or premises were let at a rackrent ; and the word " person " shall be deemed to include any body of persons whether corporate or unincorporate.

3. Where any land is used temporarily or permanently for the exhibition of advertisements, or for the erection of any hoarding frame post wall or structure used for the exhibition of advertisements but not otherwise occupied, the person who shall permit the same to be so used, or (if he cannot be ascertained) the owner thereof, shall be deemed to be in beneficial occupation of such land or part thereof, and shall be rateable in respect thereof to the relief of the poor and to all local rates, according to the value of such use as aforesaid.

4. Where any land or hereditament occupied for other purposes, and rateable in respect thereof to the relief of the poor and local rates, is used

temporarily or permanently for the exhibition of advertisements, or for the erection thereon or attachment thereto of any hoarding frame post wall or structure used for the exhibition of advertisements, the gross and rateable value of such land or hereditament shall be so estimated as to include the increased value from such use as aforesaid.

* * * * * *

THE LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICT. c. 73.)

An Act to make further provision for Local Government in England and Wales. [5th March 1894.]

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6.—(1) Upon the parish council of a rural parish coming into office, there shall be transferred to that council : . . .

(*c*) The powers duties and liabilities of the overseers . . . with respect to

(i) . . . *appeals in respect of the poor rate* (*n*) . . .

* * * * * *

7.—(1) . . . in every rural parish the parish meeting shall, exclusively, have the power of adopting any of the following Acts, inclusive of any Acts amending the same (all which Acts are in this Act referred to as " the adoptive Acts ") ; namely,—

(*a*) The Lighting and Watching Act, 1833 ;

* * * * * *

(6) This Act shall not alter the incidence of charge of any rate levied to defray expenses incurred under any of the adoptive Acts, and any such rate shall be made and charged as heretofore, and any property applicable to the payment of such expenses shall continue to be so applicable.

(7) When any of the adoptive Acts is adopted for the whole or part of a rural parish after the appointed day, and the parish has a parish council, the parish council shall be the authority for the execution of the Act.

* * * * * *

19. In a rural parish not having a . . . parish council, . . .

(9) A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts) shall not exceed sixpence in the pound in any local financial year ; . . .

(10) On the application of the parish meeting the county council may confer on that meeting any of the powers conferred on a parish council by this Act.

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56.—(1) A . . . district council may appoint committees consisting either wholly or partly of members of the council, for the exercise of

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(*n*) The words " poor rate " are repealed as from April 1, 1927, and the words "appeals in respect of the " as from April 1, 1929, see Repeals, etc., Order, 1927, Sched., Parts I, IV, *infra* ; but see also Overseers Order, 1927, art. 20 (2), *infra*.

any powers which, in the opinion of the council, can be properly exercised by committees, but a committee shall not hold office beyond the next annual meeting of the council, and the Acts of every such committee shall be submitted to the council for their approval.

Provided that . . . the council may authorise the committee to institute any proceeding or do any act which the council might have instituted or done . . . other than the raising of any loan or the making of any rate or contract (*o*).

* * * * * *

THE MERCHANT SHIPPING ACT, 1894.

(57 & 58 VICT. c. 60.)

An Act to consolidate Enactments relating to Merchant Shipping.
[25th August 1894.]

* * * * * *

731. All lighthouses, buoys, beacons, and all light dues, and other rates, fees or payments accruing to or forming part of the Mercantile Marine Fund, and all premises or property belonging to or occupied by any of the general lighthouse authorities or by the Board of Trade, which are used or applied for the purposes of any of the services for which those dues, rates, fees and payments are received . . . shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

* * * * * *

THE AGRICULTURAL RATES ACT, 1896.

(59 & 60 VICT. c. 16.)

An Act to amend the Law with respect to the Rating of Occupiers of Agricultural Land in England, and for other purposes connected therewith.
[20th July 1896.]

1.—(1) During the continuance of this Act (*p*), the occupier of agricultural land in England shall be liable, in the case of every rate to which this Act applies, to pay *one half* (*q*) only of the rate in the pound payable in respect of buildings and other hereditaments.

(2) This Act shall apply to every rate as defined by this Act, except a rate—

(*a*) which the occupier of agricultural land is liable, as compared with the occupier of buildings or other hereditaments, to be assessed to or to pay in the proportion of *one half* (*q*) or less than *one half* (*q*), or

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(*o*) See also Public Health Act, 1875, s. 200, *supra*.

(*p*) It is continued to March 31, 1928, by the Expiring Laws Continuance Act, 1926 (16 & 17 Geo. 5, c. 49), s. 1 (2).

(*q*) One-quarter, see Act of 1923, s. 1 (1), *infra*.

(*b*) which is assessed under any commission of sewers or in respect of any drainage, wall, embankment, or other work for the benefit of the land.

* * * * * *

5. In every valuation list . . .

(*a*) where separate hereditaments are specified therein, the value of agricultural land shall be stated separately from that of any building or other hereditament; and

(*b*) in every case the total rateable value of the agricultural land in each parish shall be stated separately from the total rateable value of the buildings or other hereditaments in such parish; and whenever a copy of the total of the rateable value of any parish is required to be sent to any person, such copy shall state both the above-mentioned totals; and

(*c*) where any hereditament consists partly of agricultural land and partly of buildings, the gross estimated rental of the buildings, when valued separately, in pursuance of this Act, from the agricultural land shall, while the buildings are used only for the cultivation of the said land, be calculated not on structural cost, but on the rent at which they would be expected to let to a tenant from year to year, if they could only be so used; and the total gross estimated rental of the hereditament shall not be increased by the said separate valuation.

* * * * * *

8. A limit imposed by any enactment on a rate shall be construed as being only a limit on the amount to be raised by that rate, and where by that limit or otherwise the sum to be raised or expended by a local authority is limited by any enactment by reference to a rate, the limit shall be varied so as to enable the local authority to raise or expend the same sum as they might have done if this Act had not passed, and in the case of a spending authority receiving any sum paid under this Act out of the local taxation account in respect of such rate that sum shall be deemed to be part of the sum raised thereby.

9. In this Act, unless the context otherwise requires—

The expression "rate" means a rate made during the continuance of this Act, the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined:

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The expression "valuation list" means a valuation list under the Union Assessment Committee Acts, 1862 and 1864 (*r*).

* * * * * *

The expression "occupier" includes owner where the owner is rated in place of the occupier:

* * * * * *

The expression "agricultural land" means any land used as arable, meadow, or pasture ground only, cottage gardens exceed-

(*r*) See s. 69 (2) of the Act of 1925.

ing one quarter of an acre, market gardens, nursery grounds, orchards, or *allotments* (*s*), but does not include land occupied together with a house as a park, gardens, other than as aforesaid, pleasure-grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse :

The expression " cottage " means a house occupied as a dwelling by a person of the labouring classes :

* * * * * *

10. This Act may be cited as the Agricultural Rates Act, 1896.

THE TITHE RENTCHARGE (RATES) ACT, 1899.

(62 & 63 VICT. c. 17.)

An Act to Amend the Law with respect to the payment of Rates on Tithe Rentcharge attached to a Benefice. [1st August 1899.]

1. The owner of tithe rentcharge attached to a benefice shall be liable to pay only one-half of the amount of any rate to which this Act applies, which is assessed on him as owner of that tithe rentcharge, and the remaining one-half shall, on demand being made by the collector of the rate on the surveyor of taxes for the district, be paid by the Commissioners of Inland Revenue out of the sums payable by them to the Local Taxation Account, on account of the estate duty grant.

2.—(1) In this Act, unless the context otherwise requires,—

(*a*) The expression " estate duty grant " means the grant made under section nineteen of the Finance Act, 1894, in substitution for the probate duty grant :

(*b*) The expression " benefice " includes all rectories with cure of souls, vicarages, perpetual curacies, endowed public chapels and parochial chapelries, and chapelries or districts belonging or reputed to belong, or annexed, or reputed to be annexed, to any church or chapel, and districts formed for ecclesiastical purposes by virtue of statutory authority, and includes benefices in the patronage of the Crown or of the Duchy of Cornwall :

(*c*) The expressions " owner of tithe rentcharge " and " tithe rentcharge " have the same meanings respectively as in the Tithe Act, 1891.

(2) This Act shall apply in the case of any person liable to pay rates in respect of any payment in lieu of tithe as in the case of the owner of tithe rentcharge.

3. This Act may be cited as the Tithe Rentcharge (Rates) Act, 1899.

4. This Act shall apply to every rate as defined by section nine of the Agricultural Rates Act, 1896, . . . during the continuance of the said Agricultural Rates Act, 1896 (*t*).

(*s*) See Act of 1923, s. 16, *infra*.
(*t*) See note to s. 1 of that Act, *supra*.

THE COMPANIES (CONSOLIDATION) ACT, 1908.

(8 EDW. 7, c. 69.)

An Act to consolidate the Companies Act, 1862, *and the Acts amending it.*
[21st December 1908.]

107.—(1) Where, in the case of a company registered in England or Ireland, either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then if the company is not at the time in course of being wound up, the debts which in every winding-up are under the provisions of Part IV of this Act relating to preferential payments to be paid in priority to all other debts, shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part IV of this Act shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

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139. A winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

140. At any time after the presentation of a petition for winding up, and before a winding-up order has been made, the company, or any creditor or contributory, may—

(*a*) where any action or proceeding against the company is pending in the High Court or Court of Appeal in England or Ireland, apply to the court in which the action or proceedings is pending for a stay of proceedings therein ; and

(*b*) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding ;

and the court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

* * * * * *

142. When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court, and subject to such terms as the court may impose.

* * * * * *

183. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution authorising the winding up.

* * * * * *

209.—(1) In a winding up there shall be paid in priority to all other debts—

(*a*) All parochial or other local rates due from the company at the date hereinafter mentioned, and having become due and payable within twelve months next before that date, and all assessed taxes, land tax, property or income tax assessed on the company up to the fifth day of April next before that date, and not exceeding in the whole one year's assessment ;

* * * * * *

(2) The foregoing debts shall—

(*a*) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions ; and

(*b*) In the case of a company registered in England or Ireland, so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating-charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

* * * * * *

(5) The date hereinbefore in this section referred to is—

(*a*) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order ; and

(*b*) in any other case, the date of the commencement of the winding up.

* * * * * *

211. Where any company (being a company registered in England or Ireland) is being wound up by or subject to the supervision of the court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

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285. In this Act . . . " Debenture " includes " debenture stock."

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THE BANKRUPTCY ACT, 1914.

(4 & 5 GEO. 5, C. 59.)

An Act to consolidate the Law relating to Bankruptcy.

[10th August 1914.]

9.—(1) The court may, at any time after the presentation of a bankruptcy petition, stay any action, execution, or other legal process against the property or person of the debtor, and any court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

* * * * * *

33.—(1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

(*a*) All parochial or other local rates due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before that time, and all assessed taxes, land tax, property, or income tax, assessed on the bankrupt up to the fifth day of April next before the date of the receiving order, and not exceeding in the whole one year's assessment.

* * * * * *

(2) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

* * * * * *

(5) This section shall apply, in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

* * * * * *

THE STATEMENT OF RATES ACT, 1919.

(9 & 10 GEO. 5, c. 31.)

An Act to provide for the information to occupiers of the amount of the rates payable for the houses which they occupy. [22nd July 1919.]

1.—(1) From and after the date hereinafter named every document containing a demand for rent or receipt for rent, which includes any sum for rates paid or payable under any statutory enactment by the owner instead of the occupier, shall state either the annual, half yearly, quarterly, monthly, or weekly amount of such rates paid or payable in accordance with the last demands received by the owner from the rating authorities at the time of making his demand or giving his receipt in respect of the hereditament in question: Provided that, where such a statement as is required by this section has been furnished in connection with a demand for rent or receipt for rent in respect of a particular period, it shall not be necessary to furnish the statement upon any subsequent demand for rent or receipt for rent in respect of that period.

(2) This Act shall not apply to weekly lettings at inclusive rentals in any market established under or controlled by statute.

2. The expressions "demand for rent" and "receipt for rent" shall include a rent-book, rent-card and any document used for the notification or collection of rent due or for the acknowledgment of the receipt of the same.

3. If any person makes a demand for rent or gives a receipt for rent in contravention of this Act, he shall, in respect of each offence, be liable on summary conviction to a fine of not exceeding forty shillings.

* * * * * *

THE INCREASE OF RENT AND MORTGAGE INTERST (RESTRICTION) ACT, 1920.

(10 & 11 GEO. 5, c. 17.)

An Act to consolidate and amend the Law with respect to the increase of rent . . . and for purposes in connection therewith. [2nd July 1920.]

* * * * * *

12.—(9) This Act shall not apply to a dwelling-house erected after or in course of erection on the second day of April nineteen hundred and nineteen, or to any dwelling-house which has been since that date or was at that date being *bonâ fide* reconstructed by way of conversion into two or more separate and self-contained flats or tenements ; but, for the purpose of any enactment relating to rating, the gross estimated rental or gross value of any such house to which this Act would have applied if it had been erected or so reconstructed before the third day of August nineteen hundred and fourteen, and let at that date, shall not exceed—

(*a*) if the house forms part of a housing scheme to which section seven of the Housing, Town Planning, etc. Act, 1919, applies, the rent (exclusive of rates) charged by the local authority in respect of that house ; and

(*b*) in any other case the rent (exclusive of rates) which would have been charged by the local authority in respect of a similar house forming part of such a scheme as aforesaid.

* * * * * *

16.—(1) *Section three of the Poor Rate Assessment and Collection Act, 1869, shall . . . have effect as though for the limits of value specified in that section there were substituted limits twenty-five per cent. in excess of the limits so specified* (*t*). . . .

* * * * * *

THE EDUCATION ACT, 1921.

(11 & 12 GEO. 5, c. 51.)

An Act to consolidate the enactments relating to Education . . . [19th August 1921.]

* * * * * *

27.—(1) Every elementary school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act : . . .

* * * * * *

167.—(1) No person shall be assessed or rated to or for any local rate in respect of any land or buildings used exclusively or mainly for the purpose of the schoolrooms, offices, or playground of a public elementary school not provided by the local education authority, except

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(*t*) Repealed as from the date of the first new valuation, see Repeals, etc., Order, 1927, Sched., Part III, *infra* ; but see also Act of 1925, s. 11 (1), proviso.

to the extent of any profit derived by the managers of the school from the letting thereof.

* * * * * *

170. In this Act . . .

(1) The expression " elementary school " means (except in the case of courses of advanced instruction given in pursuance of this Act) a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week, or any school carried on as an evening school under the regulations of the Board of Education or a continuation school : . . .

* * * * * *

THE ALLOTMENTS ACT, 1922.

(12 & 13 GEO. 5, c. 51.)

An Act to amend the law relating to Allotments. [4th August 1922.]

* * * * * *

17.—(1) A council (*u*) providing land for allotments whether under the Allotments Acts or otherwise may, by notice to the authority by which any rate is levied, require that the council shall be assessed to the rate as the occupiers of the land notwithstanding that the land or part thereof may be let, and in such case the council shall, for the purposes of any rate levied by that authority and made after the notice is given and before the notice is withdrawn, be deemed to be the occupiers of the land.

* * * * * *

22.—(1) . . .

The expression " council " shall, in the case of a rural parish not having a parish council, mean the parish meeting ; . . .

THE AGRICULTURAL RATES ACT, 1923.

(13 & 14 GEO. 5, c. 39.)

An Act to amend the law relating to the relief from rates to be given in respect of agricultural land in England and agricultural land and heritages in Scotland, and for purposes in connection therewith.

[2nd August 1923.]

1.—(1) During the continuance of this Act (*x*) section one of the Agricultural Rates Act, 1896 (hereinafter in this Act referred to as " the principal Act "), which provides that an occupier of agricultural land in England shall, in the case of every rate to which that Act applies, be

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(*u*) See Allotments Act, 1925, *infra*.

(*x*) Continued to March 31, 1928, by the Expiring Laws Continuance Act, 1926 (16 & 17 Geo. 5, c. 49), s. 1 (2).

liable to pay one half only of the rate in the pound payable in respect of buildings and other hereditaments, shall have effect as if for the references in that section to " one half " there were substituted references to " one quarter " :

Provided that, notwithstanding any provision contained in any other enactment for assessing agricultural land to any rate at less than the rateable value thereof or otherwise giving relief in respect of any rate to occupiers of agricultural land, an occupier of agricultural land shall not, as compared with an occupier of buildings or other hereditaments, pay any rate in a less proportion than one quarter.

(2) Where under any local Act passed, or any Provisional Order confirmed by Parliament at any time before the end of the present Session of Parliament, a rate to which the principal Act applied has, before the passing of this Act, become or thereafter becomes consolidated with a rate to which that Act did not apply, section one of that Act as amended by this section shall apply to the consolidated rate notwithstanding any provision contained in that Act or Order with respect to the proportion in which occupiers of agricultural land are liable to be assessed to or to pay that rate.

* * * * * *

4. The provisions of any enactment contained in any Act other than this Act or the principal Act by virtue of which an occupier of land in England which is used as arable, meadow or pasture ground only is liable, as compared with an occupier of buildings, to be assessed to or to pay any rate in the proportion only of one quarter, shall be extended so as to give, during the continuance of this Act, the same relief to occupiers of any land which is agricultural land within the meaning of the principal Act but is not land to which those provisions apply.

* * * * * *

6. (*y*)—(1) The provisions of the principal Act set out in the first column of Part I of the Schedule to this Act shall have effect for the purposes of this Act, so far as it relates to England, as if they were herein re-enacted with the modifications (if any) specified in the second column of the said Part. . . .

* * * * * *

16. For the purposes of removing doubts, it is hereby declared that—

(*a*) in the principal Act, as amended by this Act, the expression " allotment " includes an allotment garden within the meaning of the Allotments Act, 1922 ; and

(*b*) . . .

Provided that nothing in this section shall operate to extend the meaning of the expression " agricultural land " in the principal Act, as amended by this Act, so as to include a cottage garden not exceeding one-quarter of an acre, . . .

17.—(1) This Act may be cited as the Agricultural Rates Act, 1923.

(2) This Act, so far as it relates to England, shall be construed as one with the principal Act, and that Act and this Act, so far as it relates to England, may be cited together as the Agricultural Rates Acts, 1896 and 1923.

* * * * * *

(*y*) The modifications introduced by this section are shown in the Act of 1896, as set out above.

THE SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925.

(15 & 16 GEO. 5, c. 49.)

An Act to consolidate the Judicature Acts, 1873 to 1910, and other enactments relating to the Supreme Court of Judicature in England and the administration of justice therein. [31st July 1925.]

* * * * * *

17.—(1) A judge of the High Court or of the Court of Appeal shall not be incapable of acting in his judicial office in any proceeding by reason of his being as one of several ratepayers or as one of any other class of persons liable, in common with others, to contribute to or to be benefited by any rate or tax which may be increased, diminished or in any way affected by that proceeding.

(2) In this section the expression "rate or tax" means any rate, tax, duty or assessment whether public, general or local, and also any fund formed from the proceeds of any such rate, tax, duty or assessment, or applicable to the same or like purposes to which any such rate, tax, duty or assessment might be applied.

* * * * * *

25.—(1) Every case stated by a court of quarter sessions otherwise than under the Crown Cases Act, 1848, or the Quarter Sessions Act, 1849, for the consideration of the High Court shall be deemed to be an appeal, and shall be heard and determined accordingly.

(2) On the hearing of an appeal from a court of quarter sessions the appellate court may draw any inference of fact which might have been drawn in the court of quarter sessions, and may give any judgment or make any order which ought to have been given or made by that court, or may remit the order, and in criminal matters the conviction with the order, and the case stated on it, with the opinion or direction of the appellate court, for re-hearing and determination by the court of quarter sessions, or may remit the case for re-statement.

(3) On the hearing of any such appeal the appellate court shall have full power to determine how and by whom the costs of the proceedings in the appellate court and in the court of quarter sessions are to be borne.

(4) The judgment on any such appeal or, where an appeal to a court of quarter sessions has been directed to be entered for re-hearing, then that appeal shall on motion by any party to the appeal be entered at the sessions next or next but one after the delivery of the judgment or the giving of the direction, and shall unless the appellate court otherwise directs have effect as if the judgment had been given or, in case of an appeal directed to be re-heard, the appeal had been heard and determined, by the court of quarter sessions at the time of the decision in respect of which the appeal from quarter sessions was brought, and entry and respite of any appeal to quarter sessions in respect of which a case has been stated for the consideration of the High Court shall not be necessary.

* * * * * *

31.—(1) No appeal shall lie—

* * * * * *

(*f*) without the leave of the divisional court or of the Court of Appeal,

from the determination by a divisional court of any appeal to the High Court, . . .

* * * * * *

63.—(1) . . . in all cases where there is a right of appeal to the High Court from any court or person, the appeal shall be heard and determined by a divisional court.

* * * * * *

THE ALLOTMENTS ACT, 1925.

(15 & 16 VICT. c. 61.)

An Act to facilitate the acquisition and maintenance of allotments, . . . [7th August 1925.]

10. Where after the date of this Act coming into operation land which is not used for allotments commences to be used, the gross value, or the gross estimated rental, for the purposes of any enactment relating to rating, at which the land is assessed immediately before such user shall not be increased during the first three years of such user, and where the land so used was immediately before such user included with other land in one assessment in the valuation list in force, the gross value or gross estimated rental of the land included in that assessment shall for the purposes of this section be apportioned according to acreage as between the land used for allotments and the other land :

Provided that if on the application of any person interested, or without any such application, it appears to the assessment committee that apportionment according to acreage would work an injustice, the gross value or gross estimated rental shall be apportioned in such manner as the assessment committee may determine.

11. The provisions of sub-section (1) of section seventeen of the Act of 1922, relating to the assessment of a council to rates shall apply to an approved society (*z*) providing land for allotments in the same manner as it applies to a council. . . .

* * * * * *

THE TITHE ACT, 1925.

(15 & 16 GEO. 5, c. 87.)

An Act to amend the law relating to Tithe rentcharge and other rentcharges, rents and payments in lieu of tithe, and the payment of rates thereon ; and for other matters connected therewith. [22nd December 1925.]

3.—(1) Any tithe rentcharge which immediately before the appointed day is attached to a benefice shall on that day be transferred to, and by

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(*z*) Defined in s. 2 (8).

virtue of this Act become vested in, Queen Anne's Bounty, for all the interest therein so attached, subject to any charge or liability affecting that interest. . . .

* * * * * *

7.—(1) The amount of any rate made on or after the appointed day which is assessed on the owner of any tithe rentcharge which is vested in Queen Anne's Bounty under this Part of this Act shall not be payable by such owner, but shall, on demand being made by the collector of the rate on the surveyor of taxes for the district, be paid by the Commissioners of Inland Revenue.

(2) There shall in each year be charged on and paid out of the Consolidated Fund or the growing produce thereof to the Commissioners of Inland Revenue such sum as the Treasury may certify to be payable by those Commissioners under this section, after deducting therefrom the amounts payable to them under this Act by Queen Anne's Bounty on account of rates.

(3) There shall be deducted from the moneys payable to the Local Taxation Account in each year the same amount as would, under the Tithe Rentcharge (Rates) Act, 1899, . . . have been paid by the Commissioners of Inland Revenue, and would have been deducted from such moneys as aforesaid if the tithe rentcharges previously attached to benefices, which by this part of this Act are vested in Queen Anne's Bounty, had not been so vested.

(4) Payments to the Commissioners of Inland Revenue under this section shall be made at such times and in such manner as the Treasury may direct.

(5) The surveyor of taxes for the district shall as respects any tithe rentcharge the rates on which are so demandable from him as aforesaid have the like right of making objection to, and appealing against, a valuation of the tithe rentcharge and any rate assessed thereon, and of making proposals for the amendment of a valuation list and of receiving notices and copies of notices required by the enactments relating to rating to be served on the owner of the tithe rentcharge, as if he were the owner thereof.

(6) For the purposes of this section "rate" means a rate the proceeds of which are applicable to local purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

* * * * * *

14.—(1) The provisions of this part of this Act relating to the transfer to and vesting in Queen Anne's Bounty of tithe rentcharge and to the powers of management of Queen Anne's Bounty over the rentcharge, but none of the other foregoing provisions of this part of this Act shall apply to the following rentcharges, rents, tithes and other payments attached to a benefice or ecclesiastical corporation in like manner as to tithe rentcharge so attached, that is to say—

(*a*) any rentcharge under the Extraordinary Tithe Redemption Act, 1886;

(*b*) any corn rent rentcharge or money payment payable under any local or personal Act or award in lieu of tithe;

(*c*) any rentcharge payable under the Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture;

(*d*) any sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common;

(*e*) any tithes and other payments in lieu of tithes not being tithe rentcharge.

* * * * * *

24.—(1) In this Act, except where the context otherwise requires, . . .

The expression "tithe rentcharge" means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes a rentcharge into which before the appointed day, a corn rent has been converted under those Acts and which is subject to the like incidents as such tithe rentcharge as aforesaid; but does not include [items (*a*), (*c*), (*d*) above].

* * * * * *

THE RATING AND VALUATION ACT, 1925.

(15 & 16 GEO. 5, C. 90.)

An Act to simplify and amend the law with respect to the making and collection of rates by the consolidation of rates and otherwise, to promote uniformity in the valuation of property for the purpose of rates, to amend the law with respect to the valuation of machinery and certain other classes of properties, and for other purposes incidental to or connected with the matters aforesaid. [22nd December 1925.]

PART I.

RATING.

1. *Rating authorities.*—(1) The council of every county borough and the council of every urban and rural district shall be the rating authority for the borough or for the county district, and from and after the appointed day no authority or person other than the council shall have power to make or levy any rate within the borough or district.

(2) As from the appointed day all powers and duties of the overseers of the poor in relation to the making, levying, and collection of rates, and of any other person who by virtue of any local Act has powers in that behalf, shall in every rating area be exercised and performed by the rating authority.

(3) Every rating authority shall for the purposes of their powers and duties under this Act (other than the power of appointing persons to act as members of an assessment committee) have the same power with respect to the appointment and authorisation of committees as they have under section two hundred of the Public Health Act, 1875, or subsection (1) of section fifty-six of the Local Government Act, 1894, as the case may be, for the purposes of the Acts relating to the public health.

(4) In the case of a rural rating area the parish council of every parish or group of parishes, and the parish meeting of every parish not under a parish council, shall be entitled to appoint two persons, being local government electors, to act as members of the rating authority, or of any committee appointed by that authority in pursuance of this section, so far as regards the exercise or performance in connection with property in that parish or group of parishes of any powers or duties of the rating authority under Part II of this Act, and the persons so appointed shall, for that purpose, but not for any other purpose, be deemed to be members of the rating authority or committee, as the case may be.

2. *Levy of, and provisions as to, general rate.*—(1) As from the date of the first new valuation, the rating authority of each urban rating area, in lieu of the poor rate and any other rate which they have power to make, shall make and levy for their area a consolidated rate which shall be termed " the general rate."

(2) As from the appointed day the rating authority of each rural rating area shall, in lieu of making a poor rate for each parish, make and levy a general rate for the whole of the district.

(3) Subject to the provisions of this Act, every general rate shall be a rate at a uniform amount per pound on the rateable value of each hereditament in the rating area, and shall be made, levied and collected, and shall be recoverable, in the same manner in which at the commencement of this Act the poor rate may be made, levied, collected and recovered, and all the enactments relating to the poor rate which are in force at the commencement of this Act, including (subject to the provisions of this Act) enactments relating to appeals against a poor rate, shall, so far as not repealed by this Act, apply to the general rate :

Provided that—

(*a*) In the case of any general rate made in a rural rating area in respect of any period before the date of the first new valuation, the rating authority shall, notwithstanding anything in this subsection, give effect in the collection of the rate to any exemption or abatement to which any person would have been entitled in respect of any hereditament if the rate had been a poor rate ; and

(*b*) notwithstanding anything in the Distress for Rates Act, 1849, the justices shall not issue a warrant of commitment in default of distress for non-payment of the general rate against any person who proves to their satisfaction that his failure to pay is due to circumstances beyond his control, but where the justices in pursuance of this provision refuse to issue a warrant the rating authority may, unless the justices at the time of so refusing think fit to remit the payment of the rate (which they are hereby authorised to do), subsequently renew the application for a warrant of commitment on the ground that the circumstances of the person have changed.

(4) A rating authority shall have power to reduce or remit the payment of any general rate on account of the poverty of any person liable to the payment thereof.

(5) Where any amount, other than an amount which falls to be raised by means of a special rate under this Part of this Act, is, by virtue of any precept or otherwise, chargeable separately on any part of a rating area, the rating authority shall levy that amount on that part of the area together with, and as an additional item of, the general rate.

(6) Expenses incurred under the Public Libraries Acts, 1892 to 1919, by the library authority (not being a county council) of a library district being a parish shall, instead of being defrayed out of a rate raised in manner provided by paragraph (*c*) of subsection (1) of section eighteen of the Public Libraries Act, 1892, be levied in the library district by the rating authority together with, and as an additional item of, the general rate.

(7) Section one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (which provides that until the completion of the works the promoters of the undertaking shall make good any deficiency of poor rate caused by the lands being taken), shall have effect as though

for the references therein to the poor's rate there were substituted references to the general rate, and as though the amount required to be made good by the promoters of the undertaking were in the case of lands situate in an urban rating area one-half of the deficiency in the several assessments to the general rate.

The assessment on which any payment made by promoters under the said section is based shall be inserted in the valuation list and any such payment shall be taken into account for the purpose of ascertaining the proceeds of any rate.

(8) The provisions of this Act relating to the general rate shall apply to any consolidated rate, by whatever name called, made for any area under any local Act on or after the date of the first new valuation.

(9) Every hereditament in the rating area, whether liable to be rated or not, shall be included in every rate in the rate book.

3. *Levy of, and provisions as to, special rate in rural district.*—(1) As from the appointed day the rating authority of each rural rating area shall, in lieu of any rate in respect of expenditure under the Lighting and Watching Act, 1833, and of any rate in respect of special expenses under the Acts relating to public health, make and levy in each part of the area which is liable to be separately rated in respect of any such expenditure or in respect of any such special expenses a separate rate which shall be termed " a special rate " :

Provided that, where the amount of any such expenditure, or of any such expenses, for any half-year falling to be raised by means of a special rate chargeable on any part of the area is less than ten pounds, or is so small that a general rate of less than one penny in the pound would be sufficient to produce the amount of that expenditure or of those expenses, that amount shall not be levied by a special rate, but shall be levied in that part of the area together with, and as an additional item of, the general rate.

In this subsection the expression " half-year " means the period of six months expiring on the thirty-first day of March or the thirtieth day of September.

(2) Subject to the express provisions of this Act as to special rates, all the provisions of this Act relating to the general rate shall apply to a special rate, except that the owner of any tithe or tithe rentcharge and the occupier of any woodlands, or of any land covered with water or used as a canal or as a towing-path for a canal or as a railway constructed under the powers of any Act of Parliament for public conveyance, and, until the date of the first new valuation, the occupier of any agricultural land, shall be liable to pay in respect of one-fourth part only of the rateable value of the tithe, tithe rentcharge, woodlands or land.

4. *Operation and incidence of rate.*—(1) Every rate made by a rating authority on or after the appointed day shall be deemed to be made on the date on which it is approved by the authority, and any enactments requiring that rates must be allowed by justices shall cease to have effect.

(2) Subject to the provisions of this section, every general rate shall be made in respect of a period commencing in the case of the first general rate made under this Part of this Act for any rural rating area on the appointed day, in the case of the first general rate so made for any other rating area on the date of the first new valuation, and in the case of any subsequent general rate immediately after the expiration of the last preceding period in respect of which a general rate was made, and

terminating on such date, to be specified in the rate, as may be fixed by the rating authority, and, in the case of the last rate made in respect of any financial year, the date so fixed shall be the last day of that year.

(3) Every special rate shall be made in respect of such period, to be specified in the rate, as may be fixed by the rating authority, and a rating authority in fixing any such period shall have regard to the period during which the charges to be met by the rate accrue.

(4) The following provisions shall have effect with respect to the assessing of persons to and their liability in respect of a rate—

(*a*) a person who is in occupation of the hereditament for part only of the period in respect of which the rate is made, shall, subject to the provisions of this subsection, be liable to be charged with such part only of the total amount of the rate as the number of days during which he is in occupation bears to the total number of days comprised in the said period ;

(*b*) a person who is in occupation of the hereditament for any part of the said period may be assessed to the rate in accordance with the provisions of paragraph (*a*) of this subsection, notwithstanding that he ceased to be in occupation before the rate was made ;

(*c*) a person who is in occupation of the hereditament at any time after the rate is made may be assessed to and shall in the first instance be liable to pay, if he was in occupation at the beginning of the period, the whole rate, or, if he came into occupation subsequently, a proportion of the rate calculated on the basis that he will remain in occupation until the end of the said period, but shall, if he goes out of occupation before the end of the said period, be entitled to recover from the rating authority any sum paid by him in excess of the amount properly chargeable against him in accordance with the provisions of paragraph (*a*) of this subsection, except in so far as he has previously recovered the sum from an incoming occupier.

(5) Where the name of any person liable to be rated is not known to the rating authority, it shall be sufficient to assess him to the rate by the description of the " occupier " of the premises (naming them) in respect of which the assessment is made, without further name or description.

(6) Notwithstanding anything in this section, the rating authority may at any time make a supplementary rate if they think it necessary so to do having regard to the requirements of their area.

5. *Amendment of rate.*—(1) The rating authority may at any time make such amendments in a rate (being either the current or the last preceding rate) as appear to them necessary in order to make the rate conform with the provisions of this Part of this Act and any other enactments relating thereto, and in particular may—

(*a*) correct any clerical or arithmetical error in the rate :

(*b*) correct any erroneous insertions or omissions or any misdescriptions :

(*c*) make such additions to or corrections in the rate as appear to the authority to be necessary by reason of—

(i) any newly erected hereditament or any hereditament which was unoccupied at the time of the making of the rate coming into occupation ; or

(ii) any change in the occupation of any hereditament; or
(iii) any property previously rated as a single hereditament becoming liable to be rated in parts:

Provided that not less than seven days before making under the foregoing provisions any amendment which is not necessitated by an alteration of the valuation list, and the effect of which is to alter the amount appearing in the rate as chargeable in respect of any hereditament, the rating authority shall send notice of the proposed amendment to the occupier of the hereditament, and if the owner is liable to pay the rates in respect of the hereditament also to the owner, and shall consider any objection thereto which may be made by him or them.

(2) Every amendment made under paragraph (*a*) or paragraph (*b*) of the preceding subsection in a rate shall have effect as if it had been contained in the rate as originally made.

(3) This section shall come into operation on the appointed day.

6. *Publication of rate.*—(1) Notice of every rate shall be given by the rating authority within seven days after the making thereof, and the rate shall not be valid unless notice thereof is duly given in manner for the time being required by law.

(2) Any such notice may, if the rating authority think fit, be given either by affixing the notice at any time within the said period of seven days on or near to the doors of churches and chapels in manner prescribed by section two of the Parish Notices Act, 1837, or by affixing the notice within the said period in some public or conspicuous place or situation in each parish affected, or by publishing the notice within the said period in one or more newspapers circulating in the area of the authority and different methods of publication may be used as respects different parts of the area of the rating authority.

(3) This section shall come into operation on the appointed day.

7. *Demand notes for rates.*—(1) Information with respect to the following matters shall be included in the demand note on which the general rate is levied, that is to say—

(*a*) the situation of the hereditament in respect of which the demand note is issued and such description thereof reasonably necessary for purposes of identification as may be prescribed;
(*b*) the rateable value, and, where it differs from the rateable value, also the net annual value;
(*c*) the amount in the pound at which the rate is charged;
(*d*) the period in respect of which the rate is made;
(*e*) the amounts in the pound which are being levied for the purposes respectively of the rating authority and of each authority by which a precept has been issued to the rating authority;
(*f*) the amount, if any, in the pound which is being levied as an additional item of the rate;
(*g*) the amounts in the pound which are being levied for such of the principal services administered respectively by the rating authority and the authorities by which precepts have been issued to the rating authority as may be prescribed.

(2) The information specified in paragraphs (*a*), (*b*) (*c*) (*d*) and (*e*) of subsection (1) of this section shall be included in the demand note on which any special rate is levied.

8. *Discount on general rate.*—(1) The rating authority may, if they think fit, by resolution direct that an allowance by way of discount not exceeding two and one-half per centum shall be made on the amount due in respect of any general rate from every person who pays the net amount due before such date as the rating authority shall prescribe :

Provided that the said allowance—

(*a*) shall not be made where the person paying the rate is an owner who is entitled to any of the allowances for which provision is made by section eleven of this Act ; and

(*b*) shall be made at the same rate to all persons entitled thereto.

(2) The rating authority may at any time revoke or vary a resolution under this section.

(3) While any resolution under this section is in force, there shall be included in every demand note on which the general rate is levied a statement of the effect of the resolution.

9. *Provisions as to precepts.* . . .

10. *Unification of funds and accounts.* . . .

11. *Rating of, and collection of rates by, owners.*—(1) The rating authority may by resolution direct that, in the case of all hereditaments in their area (exclusive of hereditaments consisting of agricultural land) which belong to a class to be defined in the resolution by reference to rateable value and also, if rent is paid, by reference to the interval at which rent from time to time becomes payable or is collected, the owners thereof shall be rated instead of the occupiers :

Provided that the class shall not be so defined as to include any hereditament the rent of which becomes payable or is collected at quarterly or any longer intervals or the rateable value of which exceeds thirteen pounds, or, in the case of any area in which, at the passing of this Act, a higher limit of value is in force for the purposes of section three of the Poor Rate Assessment and Collection Act, 1869, that higher limit.

Where a rating authority give any such direction as aforesaid—

(*a*) the owners of any hereditaments in the area of that authority to which the direction applies shall, in the case of any rate made while the resolution is in force, be rated accordingly, and the rating authority shall make to any owner who being so rated pays the amount due by him in respect of the rate before the expiration of one-half of the period in respect of which the rate is made (or, if the rate is payable by instalments one-half of the period in respect of which the instalment is payable) or such later date or dates as may be specified in the resolution an allowance equal to ten per cent. of the amount payable ; and

(*b*) the rating authority, if they are the owners of any such hereditaments as aforesaid, shall in the case of any hereditament which is of a rateable value not exceeding that specified in the resolution and which is occupied by the owner, make to the owner (subject to the amount of the rate chargeable in respect of the hereditament being paid by the owner within the time fixed by the foregoing paragraph) an allowance corresponding to the amount, if any, passed on by the authority to the occupiers of hereditaments owned by them in respect of the allowance

to which the authority are entitled under this subsection, and, unless the contrary is proved, an amount not less than five per cent. of the amount payable in respect of rates shall be deemed to have been so passed on by the authority.

(2) The owner of any hereditaments to which this subsection applies, that is to say, hereditaments the rent of which becomes payable or is collected at intervals shorter than quarterly, may, by agreement in writing with the rating authority, undertake in respect of any such hereditament either—

(*a*) that he will pay the rates chargeable in respect thereof, whether it is occupied or not ; or
(*b*) that he will, so long as the hereditament is occupied, pay the rates chargeable in respect thereof ; or
(*c*) that he will on behalf of the authority collect the rates due from the occupier thereof,

and the authority may agree, where the owner so undertakes and pays over to the authority on or before the date or dates specified in the agreement the amounts payable by him thereunder, to make to him an allowance not exceeding in the case of an undertaking under paragraph (*a*) fifteen per cent., in the case of an undertaking under paragraph (*b*) seven and one-half per cent., and in the case of an undertaking under paragraph (*c*) five per cent.

An allowance made under this subsection in respect of any hereditament to an owner who is rated under the preceding subsection shall be in substitution for any allowance to which he might otherwise have been entitled in respect of that hereditament under the preceding subsection.

(3) An agreement entered into under this section shall continue in force until determined by notice given either by the rating authority to the owner or by the owner to the rating authority, and, in the event of a change in the ownership of any hereditament while the agreement is in force, shall continue to be binding on the new owner as if it had been made with him.

A notice for the purposes of this subsection, or a resolution of the rating authority rescinding a previous resolution under subsection (1) of this section, shall take effect only on the expiration of a period in respect of which a rate is made, and in the case of a notice must be given before the commencement of the period on the expiration of which it is to take effect.

(4) Where in pursuance of this section the owner is rated or has undertaken to pay or collect the rates charged in respect of any hereditament, the amount due from him in respect of the rates shall be recoverable by the rating authority from him or, where the rates are collected by an agent of his, either from him or from that agent, in the same manner and subject to the same conditions in and subject to which rates are recoverable from occupiers of rated hereditaments.

(5) In the case of an undertaking by an owner to collect rates on behalf of the rating authority, the amount due from the owner shall be taken to be an amount which bears to the total amount of the rates due the same proportion as the aggregate amount actually collected by him in respect of rent and rates bears to the aggregate amount due in respect thereof.

Unless the undertaking by the owner to collect rates expressly so provides, the expression " rates due " shall not, for the purposes of the provisions of this section relating to an undertaking by an owner to

collect rates, include rates accruing due before the date on which the undertaking comes into operation, nor for the purposes of this subsection shall account be taken of rent which accrued due before that date.

(6) Every owner who is rated under this section instead of the occupier, or who enters into an agreement with a rating authority under this section, shall from time to time on demand deliver to the rating authority a list of the occupiers of the hereditaments in respect of which he is so rated or has so agreed, and such particulars with respect to the periods for which any of those hereditaments have been unoccupied, and with respect to the amounts which he has failed to collect from the occupiers, as the authority may require for the purpose of enabling them to determine what amount is properly due from the owner under this section, and if any such owner refuses or neglects to comply with the provisions of this subsection, or knowingly delivers to the rating authority particulars which are untrue in any material respect, he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds, and, in the case of refusal or neglect to deliver particulars, to a further penalty not exceeding one pound for each day during which the offence continues after conviction therefor.

(7) Sections seven, eight, twelve, and nineteen of the Poor Rate Assessment and Collection Act, 1869 (which relate respectively to the constructive payment of rates, the power of occupiers to deduct from rent the amount of rates unpaid by owners, the recovery of rates unpaid by owners and the insertion of the names of occupiers in the rates), shall have effect for the purposes of this section as if they were therein re-enacted and in terms made applicable to the provisions thereof.

(8) Every owner who is rated under this section instead of the occupier, or who enters into an agreement with the rating authority under this section, in respect of any hereditaments shall, without prejudice to the rights of the occupier of any of those hereditaments, be treated in relation to any right of appeal to quarter sessions against a rate and for the purpose of the provisions of Part II of this Act relating to objections, appeals and proposals as standing in the same position as the occupier.

(9) Any owner who under subsection (1) of this section pays any rate which, as between the owner and the occupier, the occupier is liable to pay, shall be entitled to be reimbursed by the occupier the amount so paid.

(10) The provisions of this section shall come into operation in any rating area on the date of the first new valuation and shall have effect in substitution for the provisions contained in sections three and four of the Poor Rate Assessment and Collection Act, 1869, and paragraph (*a*) of subsection (1) of section two hundred and eleven of the Public Health Act, 1875, and, unless the rating authority concerned otherwise resolve, for any provisions contained in any local Act with respect to the rating of owners instead of occupiers, and as from the said date all resolutions, agreements, and notices then in force under any such provisions as aforesaid shall, subject as aforesaid, cease to have effect.

(11) For the purposes of this section the expression "owner," in relation to a hereditament means the person who is, or if the hereditament were occupied would be, entitled to receive the rent payable in respect thereof, or where the hereditament is occupied free of rent the person by whose permission it is so occupied.

12. *Power and duty to make sufficient rates, etc.*—(1) Every local authority shall make such rates . . . as will be sufficient to provide

for such part of the total estimated expenditure to be incurred by the authority during the period in respect of which the rate is made . . . as is to be met out of moneys raised by rates, including in that expenditure any sums payable to any other authority under precepts issued by that authority, together with such additional amount as is in the opinion of the authority required to cover expenditure previously incurred (whether within six months before the making of the rate or issue of the precept, as the case may be, or not), or to meet contingencies or to defray any expenditure which may fall to be defrayed before the date on which the moneys to be received in respect of the next subsequent rate . . . will become available. . . .

(4) This section shall have effect as from the appointed day.

13. *Power for securing payment of precepts.* . . .

14. *Limitation of right to appeal to quarter sessions against rate.*—No appeal against a rate shall lie to quarter sessions in respect of any matter in respect of which relief might have been or might be obtained under the provisions of Part II of this Act by means of an objection to the draft valuation list or to any alteration, insertion or correction made therein or by means of a proposal for the amendment of the current valuation list.

15. *Recovery of rates from tenants and lodgers.*—(1) Where the rates due from the person rated for any hereditament are in arrear, it shall be lawful for the rating authority to serve upon any person paying rent in respect of that hereditament, or any part thereof, to the person from whom the arrears are due, a notice stating the amount of such arrears of rates and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the rating authority until such arrears shall have been duly paid, and such notice shall, subject as hereinafter provided, operate to transfer to the rating authority the right to recover, receive, and give a discharge for such rent:

Provided that the right of the rating authority to recover, receive and give a discharge for any rent as aforesaid shall be postponed to any right in respect of that rent which may at any time be vested in a superior landlord by virtue of a notice under section six of the Law of Distress (Amendment) Act, 1908.

(2) This section shall have effect as from the appointed day.

(3) In this section the expression " rent " includes a payment made by a lodger.

PART II.

VALUATION.

Areas and Authorities.

16. *Assessment areas.*—(1) Subject to the provisions of this Part of this Act county boroughs and such other areas as may be constituted by schemes made under this section shall be assessment areas for the purposes of this Part of this Act.

(2) As soon as may be after the passing of this Act the council of every county shall, after consultation with the authorities of the rating areas in the county and with the boards of guardians of the poor law unions

situate wholly or partly in the county, make and submit to the Minister a scheme for the constitution of assessment areas consisting of one or more rating areas.

(3) Any two or more councils, whether councils of counties or county boroughs, may make and submit to the Minister a joint scheme for the constitution of assessment areas.

(4) A copy of any scheme submitted to the Minister under subsection (2) or subsection (3) of this section shall be forwarded forthwith by the council or councils submitting the scheme to the authorities of the rating areas and the boards of guardians of the poor law unions affected thereby.

(5) As soon as a scheme has been submitted to the Minister under this section, the council or councils submitting the scheme shall publish in one or more newspapers circulating in their area or areas a notice stating that the scheme has been so submitted and that a copy thereof is open to inspection at a specified place.

(6) No scheme submitted to the Minister under this section shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any representations with respect to the scheme which may be submitted to him by rating and other local authorities and any other interested parties (which representations rating and other local authorities and any other interested parties are hereby authorised to make), may approve the scheme with or without modifications.

(7) If the council of any county fails to submit to the Minister within six months after the passing of this Act a scheme for the constitution of assessment areas, the Minister may himself make a scheme for the purpose after consultation with the councils and boards of guardians concerned.

(8) Any scheme made under this section may be revoked or varied—

(*a*) by a new scheme made and submitted to and approved by the Minister in accordance with the provisions (subject to any necessary modifications) of subsections (2), (3), (4), (5) and (6) of this section ; or

(*b*) by a new scheme made by the Minister on a representation made by any assessment committee or rating authority and after consultation with the councils and boards of guardians concerned.

(9) Before a scheme is made by the Minister under this section, he shall publish in one or more newspapers circulating in the areas to which the scheme relates, a notice stating his proposal to make the scheme, and that a copy of the draft scheme is open to inspection at a specified place and specifying a date by which any persons affected may send to him representations with respect to the draft scheme.

(10) In making schemes under this section regard shall be had to the population and rateable value of the rating areas which will be affected by the scheme and to the desirability that each assessment area shall have an administrative centre which is appropriate for the carrying out of the work of assessment in the area and convenient for the attendance of the persons interested therein, and that suitable premises for the transaction of the business of the assessment committee for the assessment area shall be available without unnecessary expenditure.

17. *Assessment committees.*—(1) There shall be an assessment committee for every assessment area.

(2) The assessment committee for an assessment area shall, in the

case of an assessment area being a county borough, be appointed as soon as may be after the passing of this Act, and in the case of any other assessment area shall be appointed as soon as may be after the assessment area has been constituted, and as from the appointed day assessment committees shall exercise such powers and perform such duties as are conferred on them by this Act, and all assessment committees constituted under the Union Assessment Acts, 1862 and 1880, shall cease to exist.

(3) In the case of an assessment area being a county borough, the assessment committee shall consist of such number of persons to be appointed by the council of the borough as may be determined by the council, and of the persons to be so appointed not less than one-quarter shall be persons appointed to represent the boards of guardians of any unions any parts of which are comprised in the area of the borough and not less than one-fifth shall be persons who are neither members of the council of the borough nor members of any such board of guardians as aforesaid.

The persons appointed as aforesaid to represent boards of guardians shall be persons nominated by the boards.

(4) In the case of any other assessment area the assessment committee shall consist of persons to be appointed by the following authorities, being authorities whose area or any part of whose area is comprised in the assessment area, that is to say, rating authorities, boards of guardians and the councils of counties, and the proportion in which the said authorities shall be represented shall be determined by the scheme constituting the area.

(5) The provisions contained in the First Schedule to this Act shall have effect with respect to assessment committees.

18. *County valuation committees.*—(1) For the purposes of this Part of this Act there shall be established in every county a committee of the county council (to be called " the county valuation committee") consisting of such number of persons, being members of the council of the county, as the council may think fit to appoint and of a representative of the assessment committee for each assessment area which, or any part of which, is comprised in the area of the county to be nominated by the assessment committee.

(2) It shall be the duty of every county valuation committee to take such steps as the committee think fit for promoting uniformity in the principles and practice of valuation and assisting rating authorities and assessment committees in the performance of their functions under this Part of this Act, and for the purpose of the performance of the said duty the committee shall have power, either alone or in conjunction with county valuation committees for other counties, to hold conferences with persons representing assessment committees (including assessment committees for county boroughs), and to bring to the notice of any rating authorities or assessment committees any conclusions arrived at or recommendations made by the committee or at any such conference.

(3) A county valuation committee may, either alone or in conjunction with any rating authority, assessment committee or other county valuation committee, appear as a party to any objection or appeal under this Part of this Act :

Provided that the committee shall not be entitled so to appear in opposition to any objection made or appeal brought by the occupier of the hereditament affected unless not less than three days before the date of the hearing of the objection or, in the case of an appeal, such

longer period as may be required by the rules relating to appeals, the committee have given notice in writing to the occupier stating their intention so to appear and the grounds of their opposition or the representations which they propose to make at the hearing.

(4) Notwithstanding anything in this section, subsections (1) and (2) of section eighty-two of the Local Government Act, 1888 (which relates to the proceedings of committees appointed by county councils), shall apply in relation to the county valuation committee, and subsection (3) of section eighty of the said Act shall apply in relation to expenditure incurred or to be incurred in connection with the exercise by the committee of its functions as it applies to any other expenditure of a county council.

Valuation Lists.

19. *Making and operation of new valuation lists.*—(1) A new valuation list shall be made in accordance with this Part of this Act for every rating area so as to come into force either on the first day of April, nineteen hundred and twenty-eight, or the first day of April, nineteen hundred and twenty-nine, and a second new valuation list shall be so made so as to come into force for every such area on the first day of April, in the year nineteen hundred and thirty-two, the year nineteen hundred and thirty-three, or the year nineteen hundred and thirty-four, and thereafter new valuation lists shall be made from time to time so that the interval between the dates on which one valuation list and the next succeeding valuation list respectively come into force shall be a period of five years :

Provided that the Minister may by order—

(*a*) on the application of the assessment committee for any assessment area, extend or reduce by six months the interval which would otherwise elapse between the coming into force of any two successive valuation lists for any rating area, and may for that purpose substitute the first day of October for the first day of April, and (in the case of such a substitution having been made) thereafter substitute the first day of April for the first day of October, as the date on which a new valuation list is to come into force ; and

(*b*) on the application of any rating authority made with the concurrence of the assessment committee, divide the rating area into parts for the purposes of a new valuation list and determine the years in which the next following valuation list for each of such parts respectively shall be made in pursuance of such order and come into force.

(2) Subject to the provisions of any such order as aforesaid, every new valuation list shall come into force on the first day of April next following the date on which it is finally approved by the assessment committee, and shall, subject to the provisions of this Act (including the provisions with respect to the alteration of and the making of additions to the valuation list), remain in force until it is superseded by a new valuation list.

(3) The question as to the year in which the first or the second new valuation list for any area is to come into force shall be determined by the assessment committee after consultation with the rating authority.

20. *Effect of valuation list.*—(1) For the purpose of every rate as defined by this Act, and for the purpose of determining the annual value

of premises under the Licensing (Consolidation) Act, 1910, or under the enactments relating to the qualification of a manager of a school or asylum district, or, save as hereinafter mentioned, of a juror, the valuation list as in force at the time when the rate is made or the value of the premises is to be determined, shall be conclusive evidence of the values of the several hereditaments included in the list :

Provided that, for the purposes of determining the qualification of a special juror, the rateable value of premises shall be taken to be the net annual value as appearing in the list.

(2) Where for the purposes of the Licensing (Consolidation) Act, 1910, it is necessary to make a separate valuation of any hereditament by reason of its not being separately valued in any valuation list, the value of that hereditament shall be ascertained in the same manner as if this Act had not passed.

21. *Contents of valuation list.*—(1) Subject to the provisions of this Act, there shall be inserted in the valuation list such particulars with respect to every hereditament in the rating area and the value thereof as may be prescribed.

(2) The particulars with respect to each parish in the rating area shall be set out in a separate division of the valuation list.

22. *Ascertainment of rateable value.*—(1) For the purposes of the first new valuation list to be prepared under this Act and of any subsequent valuation list the rateable value of a hereditament shall be ascertained as follows :—

(*a*) If the hereditament belongs to one of the classes specified in the first column of the table contained in Part I of the Second Schedule to this Act, there shall be deducted from the gross value of the hereditament an amount representing the deduction specified with respect to hereditaments of that class in the second column of the said table, and also, in the case of a hereditament subject to any rate, charge, or assessment made by any commissioners of sewers or other like authority in respect of any drainage, wall, embankment, or other work for the benefit of the hereditament (not being a usual tenant's rate), such further amount as represents the average annual amount of that rate, charge, or assessment, and the gross value as so reduced is in this Act referred to as the net annual value :

(*b*) If the hereditament is not such a hereditament as is mentioned in paragraph (*a*), there shall be estimated the rent at which the hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and tithe rentcharge, if any, and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent, and the annual rent as so estimated shall, for the purposes of this Part of this Act, be taken to be the net annual value of the hereditament :

(*c*) The rateable value of a hereditament shall be taken to be the net annual value thereof as ascertained under paragraph (*a*) or paragraph (*b*), as the case may be, except that if the hereditament belongs to one of the classes specified in the first column of the table contained in Part II of the said Schedule, its rateable value shall be taken to be the amount produced by

making from the net annual value such deduction as is specified with respect to hereditaments of that class in the second column of the said table :

(*d*) if the amount of the net annual value and of the rateable value, in a case where those values are the same, or in any other case the amount of the rateable value, includes a fraction of a pound, the amount of both those values or of the rateable value, as the case may be, shall be increased or reduced, as the case may be, to the nearest complete pound, or if the fraction is ten shillings the fraction shall be disregarded.

(2) As from the date of the first new valuation any deduction made in pursuance of the provisions of Part II of the said Schedule from the net annual value of agricultural land shall, so far as it affects the raising of money which if this Act had not passed would have been raised by rates to which the Agricultural Rates Acts, 1896 and 1923, apply, be treated for the purposes of those Acts as if it were the relief from rates for which provision is made by those Acts, and, subject as aforesaid, any deduction made in pursuance of the provisions of the said Part II from the net annual value of any hereditament shall for all purposes be taken to be in substitution for any corresponding relief in respect of rating to which the occupier of that hereditament would have been entitled under the Acts relating to the public health, or any local Act, or otherwise, if this Act had not passed.

(3) The provisions set out in Part III of the said Schedule shall have effect in relation to the deductions to be made under this section.

23. *Assessment of certain buildings occupied in parts.*—(1) Where a building which was constructed or has been adapted for the purposes of a single dwelling-house, or as to part thereof for such purpose, and as to the remainder thereof for any purpose other than that of a dwelling or residence, is occupied in parts, the rating authority or the assessment committee in preparing, or revising a draft valuation list, or in amending a current valuation list may, if they think fit, having regard to all the circumstances of the case, including the extent, if any, to which the parts separately occupied have been severed by structural alterations, treat the building or any portion thereof as a single hereditament, and a building or portion of a building so treated as a single hereditament shall, for the purposes of rating, be deemed to be a single hereditament in the occupation of the person who receives the rents payable in respect of the parts.

(2) This section shall have effect in any area for the purpose of the making of the first new valuation list under this Act for that area and for the purpose of the revision of that list and the making or revision of any subsequent list, but shall not have effect for the purpose of the making or revision of any other valuation list.

24. *Valuation of hereditaments containing machinery and plant.*—(1) For the purpose of the making or revision of valuation lists under this Part of this Act, the following provisions shall have effect with respect to the valuation of any hereditament other than a hereditament the value of which is ascertained by reference to the accounts, receipts or profits of the undertaking carried on therein :—

(*a*) All such plant or machinery in or on the hereditament as belongs to any of the classes specified in the Third Schedule to this Act shall be deemed to be a part of the hereditament :

(*b*) Subject as aforesaid, no account shall be taken of the value of any plant or machinery in or on the hereditament.

(2) The rating authority or the assessment committee, as the case may require, shall, on being so required in writing by the occupier of any hereditament, furnish to him particulars in writing showing what machinery or plant, or whether any particular machinery or plant, has been treated in pursuance of the provisions of this section as forming part of the hereditament.

(3) For the purpose of enabling all persons concerned to have precise information as to what machinery and plant falls within the classes specified in the said Third Schedule, there shall be constituted a committee consisting of five persons to be appointed by the Minister, and the said committee shall as soon as may be after the passing of this Act prepare a statement setting out in detail all the machinery and plant which appears to the committee to fall within any of the classes specified in the said schedule.

(4) The committee shall as soon as the said statement has been prepared transmit it to the Minister, who shall cause it to be published in such manner as he thinks fit.

(5) The Minister, after considering the statement and any representations which may be made to him with respect thereto, may, if he thinks fit, make an order confirming it, with or without modifications, and, subject as hereinafter provided, the statement as confirmed by the order shall for all purposes have effect as if it were substituted for the Third Schedule to this Act.

The order confirming the statement shall as soon as may be after it is made be laid before both Houses of Parliament, and if either House within the next subsequent twenty days on which that House has sat next after the order is laid before it presents an Address to His Majesty against the order, or any part thereof, the order, or that part of the order, shall thenceforth be void, but without prejudice to the validity of anything done thereunder and without prejudice to the making of a new order.

(6) The statement confirmed as aforesaid shall be revised at such intervals as the Minister may direct, and the provisions of subsections (4) and (5) of this section shall, subject to the necessary modifications, have effect in relation to the revised statement as they have effect in relation to the original statement, except that a revised statement shall (subject to the provisions contained in subsection (5) with respect to the presentation of an Address to His Majesty) come into operation on such date as may be specified in the confirming order.

(7) For the purposes of this section there shall be constituted a panel of referees, and if on or in connection with any objection or proposal made or appeal brought under this Part of this Act a question is raised whether any particular plant or machinery falls within any of the classes or descriptions specified in the confirmed statement, that question may, with the consent in writing of the parties to the proceedings, be referred by the assessment committee or court, as the case may be, to and determined by such member of the panel as may be agreed on by the parties or, in default of agreement, as may be selected in accordance with rules made under this section.

(8) The said panel shall consist of persons to be appointed by the Lord Chief Justice of England, and the Lord Chief Justice may make rules fixing the fees to be charged in respect of proceedings before a referee and with respect to the procedure on and in connection with references under this section and with respect to the selection of a referee

in cases where the parties fail to agree as to the member of the panel to be appointed, and provision may be made by the rules for applying to references under this section (subject to the express provisions thereof) any of the provisions of the Arbitration Act, 1889, but except in so far as it may be so applied, that Act shall not apply to references under this section.

(9) A referee under this section may, and shall if so required by any party to the reference, before making his award inspect the plant or machinery in respect of which the question arises, and the award of the referee shall be final and conclusive.

(10) Nothing in this section shall affect the law or practice with regard to the valuation of hereditaments the value of which is ascertained by reference to the accounts, receipts or profits of an undertaking carried on therein, or be taken to extend the class of property which is under the law and practice as in force at the commencement of this Act deemed to be provided by the occupier and to form part of his capital.

Preparation of Valuation Lists.

25. *Making of draft valuation list.*—(1) Where the rating authority of any area have in pursuance of the provisions of this Part of this Act issued notices requiring returns in connection with the making of a new valuation list under this Part of this Act, the authority shall, as soon as may be after the expiration of the period allowed for the delivery of the returns, cause to be prepared a draft valuation list (in this Part of this Act referred to as " the draft list ") for their area.

(2) The rating authority shall, as soon as may be after the draft list has been prepared, cause it to be signed by their clerk and to be deposited in accordance with the provisions of this Part of this Act, and a copy thereof to be transmitted forthwith to the assessment committee.

(3) The rating authority in preparing the draft list shall comply with all such directions as may be given by the assessment committee for the purpose of carrying into effect the provisions of this Part of this Act with respect to the procedure for the preparation of the valuation list.

(4) The provisions contained in Part I of the Fourth Schedule to this Act shall apply with respect to the deposit, inspection, transmission and notification of draft lists.

26. *Objections to draft valuation list.*—(1) Any person (including the county valuation committee and any local authority) aggrieved by the incorrectness or unfairness of any matter in the draft list, or by the insertion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list, may in accordance with the provisions of this Part of this Act lodge an objection with the assessment committee at any time before the expiration of twenty-five days from the date on which the draft list was deposited.

(2) Where a rating area has been divided into parts for the purpose of a new valuation list a person shall not be deemed to be aggrieved in respect of the valuation of any hereditament in one of those parts by reason of any disparity between the valuation of that hereditament and the valuation of any hereditament situated in a part of the area the new valuation list for which is to be made in a subsequent year.

(3) The provisions contained in Part II of the Fourth Schedule to this Act shall apply with respect to notices of objections.

27. *Revision of draft valuation list by assessment committee.*—(1) The assessment committee shall hold meetings for considering any objections made to the draft list in accordance with the provisions of this Part of this Act, and on the consideration of any objection the objector, the rating authority, the county valuation committee, and the occupier of the hereditament to which the objection relates shall be entitled to appear and to be heard, and to examine any witness before the assessment committee and to call witnesses :

Provided that the assessment committee may at any such meeting consider any objection, although notice thereof has not been given in accordance with this Act, if the persons to whom copies of the notice of objection are required by this Act to be given consent to the consideration of the objection.

(2) On their revision of the draft list the assessment committee may, subject to the provisions of this Act, make such alterations, insertions and corrections in the list, whether for the purpose of meeting an objection or for any other reason as they think proper :

Provided that any person aggrieved by any alteration, insertion or correction made in the draft list by the assessment committee otherwise than in determining an objection may, in accordance with the provisions of this Part of this Act, lodge an objection with the assessment committee at any time within fourteen days after the date on which notice of the alteration, insertion or correction is served on him.

(3) The provisions contained in Part III of the Fourth Schedule to this Act shall have effect with respect to the time at which meetings for considering objections are to be held, the notice of those meetings and the proceedings in connection therewith.

28. *Final approval of valuation list.*—(1) The assessment committee shall, in any case not later than the thirty-first day of January or the thirty-first day of July, as the case may be, in the year in which under the foregoing provisions of this Act the valuation list is to come into force, or if all objections (other than objections the hearing of which has been postponed at the request of any party thereto) have been previously heard and determined, as soon as may be after the objections have been so heard and determined, finally approve the draft list, and append to the draft list so approved a declaration of approval and certificate of compliance with this Part of this Act, signed by three members of the committee present at the meeting at which the list is so approved, and shall forthwith after approving the list cause it to be transmitted to the rating authority of the district, and send to the clerk of the peace for every county or borough having a separate court of quarter sessions in which any part of the rating area is comprised a notification of the approval of the draft list and of the date of the approval.

(2) Before approving the draft list the assessment committee shall cause such particulars with respect to totals of values as may be prescribed, both in respect of the whole rating area and also in respect of any parish or other area which is liable to be charged separately under any precept or to bear any special expenses, to be ascertained and inserted in the list.

(3) The draft list for any rating area finally approved and sent to the rating authority as aforesaid shall, subject to any alterations made in accordance with this Part of this Act, be the valuation list for the rating area and shall come into force on such date as is provided by this Part of this Act, and the valuation list in force shall, unless the contrary is

proved, be deemed to have been duly made in accordance with the provisions of this Part of this Act.

(4) The rating authority on receiving the list shall deposit it at the offices of the authority.

(5) The rating authority shall give effect to any directions which may from time to time be given to them by the assessment committee in pursuance of the provisions of this Part of this Act authorising or requiring assessment committees to make corrections or alterations in valuation lists.

29. *Record of totals.*—Every assessment committee shall cause to be kept a record of such particulars with respect to totals of values as may be prescribed for every rating area in the assessment area, and for every other area therein in the case of which total values are required to be inserted in the valuation list.

30. *Correction of clerical errors.*—An assessment committee may at any time cause to be corrected any clerical or arithmetical error in a valuation list, and the valuation list shall have effect accordingly, but if the correction is made in respect of any matter other than totals, the committee shall before making the correction send notice thereof to the occupier of the hereditament affected and to the rating authority of the rating area, and shall allow seven days to elapse for the making of any objection to the proposed correction.

Appeals.

31. *Appeal to quarter sessions.*—(1) Any person who appeared before the assessment committee on the consideration of an objection made before the committee under this Part of this Act may, if he is aggrieved by the decision of the committee on the objection, appeal against the decision, in manner provided by this Part of this Act, to the court of quarter sessions for the county or place where the hereditament to which the objection related is situate.

(2) Any person on whom a copy of a notice of an appeal to a court of quarter sessions under this Part of this Act is required to be served may, if he thinks fit, appear as respondent to the appeal:

Provided that—

(*a*) in any case where there is more than one respondent to an appeal, no order shall be made against the appellant for the payment of the costs of more than one of the respondents, and if costs are ordered to be paid to the appellant, the court may apportion those costs among the several respondents in such manner as the court thinks just; and

(*b*) where the appellant is the county valuation committee or a local authority, the occupier of the hereditament to which the appeal relates may at any time before the hearing of the appeal instead of appearing as respondent give notice to the court that he desires to be called as a witness in the case, and if he gives such a notice shall, unless called as a witness by any party to the appeal be called by the court as a witness and may be cross-examined by or on behalf of any party to the appeal.

(3) The provisions contained in Part I of the Fifth Schedule to this Act shall have effect with respect to notices of appeal to quarter sessions.

(4) On an appeal under this section the court shall, as it thinks just, either confirm the valuation list or alter the valuation list to give effect to the contention of the appellant so far as that contention appears to the court to be well founded.

(5) On the determination of an appeal under this section any party to the appeal may, if dissatisfied with the decision of the court as being erroneous in point of law, make an application in writing at any time within twenty-one days after the date of the decision to have a case stated for the opinion of the High Court on the point of law, and the court shall, unless it is of opinion that the application is frivolous, state a case accordingly :

Provided that the court may impose such conditions as it thinks fit with respect to the payment of the costs of and in connection with all or any of the stages of the case by the party by whom the application for the case was made, having regard to the importance of the question of law involved from the point of view of the several parties to the proceedings.

(6) Sections twelve, thirteen and fourteen of the Quarter Sessions Act, 1849 (which relate to arbitration), shall not apply in the case of an appeal under this section, but the appellant and the persons who have given notice of intention to appear as respondents to the appeal may agree in writing either to refer the matter in dispute, or any question or issue arising therein, to arbitration in accordance with the provisions contained in Part II of the Fifth Schedule to this Act, or to appoint a person to value any hereditament, or any part thereof, and to accept the valuation made by that person as binding for the purposes of the appeal and to treat the costs of and incidental to the valuation as part of the costs of the appeal.

(7) Any award of an arbitrator and any judgment of a superior court with respect to an appeal under this Part of this Act (whether upon a case stated by a court of quarter sessions or by the parties or by an arbitrator, or upon an application for a writ of certiorari or otherwise) may be enrolled at quarter sessions upon the application of any party interested therein, and thereupon quarter sessions shall cause such order to be issued as may be necessary to give effect thereto.

(8) A writ of certiorari for questioning any decision of a court of quarter sessions on an appeal under this Act shall be sued out within three months after the decision is given.

(9) Any officer of an assessment committee, rating authority, or county valuation committee, acting under any special or general resolution of the committee or authority may authorise the institution, carrying on or defence of any proceedings in relation to the valuation list which the committee or authority are themselves authorised to institute, carry on or defend.

(10) Where the decision on an appeal under this section or any award of an arbitrator or judgment of a superior court which has been enrolled at quarter sessions involves an alteration of the valuation list, the clerk of the court shall send to the county valuation committee and the assessment committee a statement in writing signed by him setting out the decision of the court or the award or judgment, as the case may be, and specifying the alteration to be made in the list.

(11) A justice of the peace shall not be disqualified for taking part in the determination of an appeal under this Part of this Act by reason of the fact that he is a ratepayer in any rating area within the county (not being the rating area in which the hereditament to which the appeal relates is situate), or by reason that he is a member of any authority (not

being an authority which is a party to the appeal) which joins in the appointment of the assessment committee or pays part of the expenses thereof, but no justice who is a member of any local authority shall be qualified to take part in the determination of an appeal under this Part of this Act if the appeal relates to any hereditament which is the property or in the occupation of the authority.

32. *Procedure on appeals.*—(1) The powers and duties of a court of quarter sessions with respect to appeals under this Act shall, in the case of quarter sessions for a county, be delegated to and be performed by a committee of the justices of the county appointed by quarter sessions, and sittings of the committee shall be held at one or more places, as the committee think proper, having regard to the convenience of parties to appeals.

(2) A committee appointed by quarter sessions under this section shall be deemed to be a standing committee of quarter sessions for the period for which they are appointed, or if no period is fixed until their successors are appointed, and their jurisdiction shall not be affected by the termination of the sessions at which they were appointed and may be exercised at any date and continuously, whether the court of quarter sessions is, or is not, for other purposes in session.

(3) Subject to the provisions of this Act and any rules made thereunder, a committee appointed under this section shall for the performance of the duties delegated to them have all the same powers as regards costs and other matters under the Quarter Sessions Act, 1849, or otherwise as if they were the court of quarter sessions ; and for the purpose of the provisions of the said Act relating to costs the assessment committee shall, if no other person appears as respondent to the appeal, be deemed to be a respondent to the appeal, whether they appear on the hearing of the appeal or not.

(4) The mode of appointment of a committee under this section, the number and, subject to the provisions of this Act, the procedure of the committee shall be determined by quarter sessions :

Provided that—

(*a*) the chairman of the committee shall be appointed annually by quarter sessions, who in making the appointment shall have regard to judicial or other legal experience ; and

(*b*) not less than five and not more than seven members shall take part in the determination of any appeal.

(5) In the determination of any appeal the chairman or acting chairman of the committee shall have a second or casting vote.

(6) Where quarter sessions have customarily been held separately by adjournment or otherwise for any part of a county, a Secretary of State may by order, on the application of the justices sitting at each such separate sessions, for the purposes of appeals under this Act constitute any part of the county for which quarter sessions are for the time being so separately held a separate county, and the justices usually sitting at those separate quarter sessions a separate quarter sessions, and make all necessary provisions for the hearing of appeals in such a case.

(7) The powers and duties of quarter sessions with respect to appeals under this Act shall, in the case of quarter sessions for a borough having a separate court of quarter sessions, be exercised by the recorder as sole judge of the court, and may be so exercised at any date and continuously, whether the court of quarter sessions is, or is not, for other purposes in session.

(8) On the hearing of an appeal by a committee of quarter sessions under this section any party to the appeal may, if the rateable value of the hereditament to which the appeal relates as appearing in the valuation list does not exceed one hundred pounds, appear by solicitor instead of in person or by counsel.

33. *Appointment by court of person to value hereditaments.*—If any party to an appeal to a court of quarter sessions under this Act makes an application to the court, either before the hearing of the appeal or at any time during the hearing before evidence as to value has been adduced, to direct a valuation of any hereditaments in relation to which the appeal is made, the court in their discretion may appoint a proper person to make the valuation, and the persons so appointed shall have power to enter on, survey and value the hereditaments in respect of which the direction is given :

Provided that—

(*a*) the costs of the valuation shall be deemed to be costs of the appeal but shall be payable in the first instance by the applicant, and except where the application is made by the council of a county, a county valuation committee, a rating authority, an assessment committee or a board of guardians, the court shall not make any order on the application unless the applicant gives such security as the court think proper to pay the costs of the valuation ; and

(*b*) the court may, and on the application of any party to the appeal shall, call as a witness the person so appointed, and, if he is so called, any party to the appeal shall be entitled to cross-examine him.

34. *Power to make rules with respect to appeals.*—The Secretary of State may make rules generally with respect to the practice and procedure to be followed on and in connection with appeals under this Part of this Act, and in particular, without prejudice to the generality of the foregoing description, may by those rules—

(*a*) prescribe scales of costs :

(*b*) prescribe fees to be charged in connection with appeals and arbitration :

(*c*) provide for the exercise by the clerk of the peace in the case of any preliminary proceedings of any of the powers of the court of quarter sessions :

(*d*) provide for the appointment of a person to act in lieu of the clerk of the peace in any case where the clerk of the peace is also an officer of any authority or committee which is a party to an appeal, and for the assignment to a person so appointed of remuneration, to be paid out of the county fund or the general rate fund of the borough, as the case may be, on such scale as may be specified in the rules :

(*e*) prescribe the forms to be used in connection with appeals and arbitration.

35. *Alteration of list in consequence of decisions on appeal.*—The assessment committee shall cause such alterations to be made in the valuation list as are specified in any statement sent to the committee under the foregoing provisions of this Act with respect to a decision, award or

judgment given on an appeal under this Act, and shall also cause such alteration of totals to be made as is consequential on any such alteration made under this section.

36. *Rate to be levied notwithstanding appeal.*—(1) Any rate in respect of which the valuation list is conclusive shall be made and levied in accordance with the valuation list in force for the time being, and shall be collected and be recoverable, notwithstanding any appeal which may be pending with respect to that list :

Provided that where in the case of any hereditament the value questioned by the appeal exceeds the value of that hereditament as last previously determined under this Part of this Act, the amount recoverable pending the decision of the appeal shall not, unless the hereditament has been substantially altered since its value was last previously determined, exceed the amount which would have been recoverable if its value had not been so increased.

(2) Where in pursuance of the last preceding section of this Act there is made in the valuation list an alteration which affects the amount of any rate levied in respect of any hereditament in accordance with the list, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate.

Revision of Current Lists.

37. *Amendment of current valuation list.*—(1) Any person (including the county valuation committee and any local authority) who is aggrieved by the incorrectness or unfairness of any matter in the valuation list for the time being in force, or by the inclusion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list, may make in manner provided by this section a proposal for the amendment of the list (in this section referred to as " a proposal "), and where a rating authority in pursuance of the provisions of this Act make any amendment in a rate other than the correction of a clerical or arithmetical error, or the correction of an erroneous insertion, omission, or misdescription, the authority shall forthwith make a proposal for any necessary amendment of the list.

(2) Every proposal made under this section must—

(*a*) be made in writing and, except where it is made by the rating authority, be served on the rating authority ;

(*b*) specify the grounds on which the proposed amendment is supported.

(3) The rating authority shall, within seven days after the date on which the proposal is made by or served on them, transmit a copy thereof, in the case of a proposal made otherwise than by the occupier of the hereditament to which it relates, to the occupier, or, where there is no occupier, to the owner thereof, and shall not less than twenty-one days before the date of the meeting at which the proposal will be considered by the assessment committee, transmit to him, a notice of the date on which the meeting aforesaid will be held and a short statement of the effect of the next following subsection of this section.

(4) Any person to whom a copy of a proposal is transmitted as aforesaid may, if he thinks fit, give to the rating authority notice in writing of objection to the proposal, and unless he gives such notice he shall not be entitled to be heard at the meeting in opposition to the proposal.

Any such notice as aforesaid must be given not less than seven days before the date on which the meeting for considering the proposal is to be held and must state the grounds of the objection.

(5) The rating authority shall forthwith transmit to the person by whom a proposal is made a copy of any notice of objection thereto which has been received by them, and if they themselves intend to object to the proposal shall forthwith give to that person notice of their intention and of the grounds of the objection.

(6) The rating authority shall from time to time and at such times as the assessment committee may direct furnish to the assessment committee returns and other particulars with respect to all proposals and any notices of objection thereto given to the rating authority.

(7) The assessment committee shall hear and determine any proposal as if it were an objection to a draft list, and all the foregoing provisions of this Part of this Act relating to the hearing and determining of such an objection shall apply accordingly.

(8) If the person by whom any proposal is made under this section, or a person who objects to any such proposal, or the rating authority is aggrieved by the decision of the assessment committee thereon that person, or authority, as the case may be, may within twenty-one days after the date of the decision appeal against the decision in the same manner as if the decision were a decision of the committee on an objection to a draft list, and subject to the express provisions of this section all the provisions of this Part of this Act with respect to appeals against such a decision shall apply accordingly.

(9) The assessment committee shall as soon as may be after any proposal made under this section has been disposed of by them, cause the proper alterations in or additions to the valuation list to be made (including any consequential alterations to totals), and shall give notice of the alterations and additions to the occupier or, where there is no occupier, to the owner of the hereditament affected.

(10) Subject as hereinafter provided, an amendment made in the valuation list in pursuance of this section shall, in relation to any rate current at the date when the proposal in pursuance of which the amendment was made was served on the rating authority, or, where notice of the proposal was given to the occupier or owner, as the case may be, of the hereditament affected, current at the date when the notice was so given, be deemed to have had effect as from the commencement of the period in respect of which the rate was made, and shall, subject to the provisions of this section, have effect for the purposes of any subsequent rate, and the provisions of subsection (2) of the last preceding section of this Act shall have effect accordingly :

Provided that, in the case of an amendment consisting of the inclusion in the valuation list either of a newly erected or newly constructed hereditament or an altered hereditament which has been out of occupation on account of structural alterations, or of the alteration in the valuation list of the value of any hereditament, where the value thereof has been affected by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause, the amendment shall have effect only as from the date when the new or altered hereditament comes into occupation, or as from the happening of the event giving rise to the alteration of the value of the hereditament, as the case may be, or in a case where tithe, tithe commutation rentcharge or other payment in lieu of tithe is extinguished in whole or in part, as from the date on which the extinction takes effect.

(11) Every assessment committee shall hold such meetings as are in the opinion of the committee reasonably required for the prompt disposal of proposals made under this section with respect to the valuation lists of their area, and the meetings so to be held shall be held on such dates as may be fixed by the committee after consultation with the rating authorities in their area.

Employment of Valuers.

38. *Power of authorities to employ valuers.*—(1) Any rating authority, assessment committee, or county valuation committee, may, if they think fit, employ a competent person to give advice or assistance in connection with the valuation of any hereditaments in their area, and any person so employed shall have power, at all reasonable times and after giving due notice, and on production, if so required, of authorisation in writing in that behalf from the rating authority or committee authenticated by the signature of their clerk, to enter on, survey and value any hereditament in the area of the authority or committee which the authority or committee may direct him to survey and value.

(2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section he shall be liable on summary conviction to a fine not exceeding five pounds.

Powers of High Court in case of default by Rating Authority, Assessment Committee, etc.

39. *Power of High Court to appoint person to act in place of defaulting authority.*—(1) If at any time it is shown to the satisfaction of the High Court, on an application made by the Minister, or the council of any county or county borough concerned, that there is reason to apprehend that by reason of default made by any authority, committee or person in complying with any of the provisions of this Part of this Act a valuation list for any area will not be duly prepared in accordance with those provisions so as to come into force on the proper date, the court may appoint such person as they think fit to make and approve the list for the said area or to do any such things as ought to have been done by the authority, committee or person in default.

(2) All costs properly incurred by a person appointed by the High Court under this section shall be paid by the authority, committee or person in default, and in case of dispute the amount payable as costs under this subsection shall be taxed in such manner as the High Court may direct.

Information and Returns.

40. *Powers of rating authority to require returns.*—(1) In every case where a new valuation list is to be made under this Part of this Act for any rating area the rating authority shall serve notice on the occupier, owner or lessee of every hereditament in the area, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of carrying out this Act.

The said notices shall be served not later than such date as will allow a sufficient interval for completing, in accordance with the provisions of this Part of this Act, the various stages in the preparation of the valuation list.

(2) The rating authority may at any time in connection with a proposal which has been made for the amendment of the valuation list,

or with a view to the making of such a proposal, serve notice on the occupier, owner or lessee of any hereditament in the area or on any one or more of them requiring him or them to make a return.

(3) Every person on whom a notice to make a return is served in pursuance of the provisions of this section shall within twenty-one days after the date of the service of the notice make a return in such form as is required by the notice, and deliver it in manner so required to the rating authority.

(4) The rating authority shall cause all returns delivered to the authority in pursuance of the last preceding subsection to be transmitted to the assessment committee.

(5) Any returns received under this section shall, after the relative lists are finally approved, or after the proposals for amendment have been disposed of, as the case may be, be sent by the assessment committee to the rating authority.

(6) Every assessment committee and every rating authority shall furnish to the county valuation committee all information which the county valuation committee may require for the due discharge of their functions under this Part of this Act and which it is in the power of the assessment committee or the rating authority to furnish.

41. *Power of assessment committee to require returns.*—If the assessment committee at any time desire any person who is the owner, lessee or occupier of any hereditament wholly or partly within the assessment area to make a return with respect to any of the matters with respect to which a return may be required under the last preceding section, they may serve a notice on that person requiring the return, and that person shall, within twenty-one days after service of the notice, send the required return to the assessment committee.

42. *Penalties for failure to make returns, and for making false returns.*—(1) If any person on whom notice has been served under any of the provisions of the two sections of this Act last preceding fails without reasonable excuse to comply with the notice, he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for each day during which the default continues after conviction.

(2) If any person wilfully makes or causes to be made a return under either of the two sections of this Act last preceding which is false in any material particular, he shall, without prejudice to any liability to be proceeded against under any other enactment, be liable on summary conviction in respect of each offence to a fine not exceeding fifty pounds.

Miscellaneous.

43. *Evidence of lists, and furnishing of copies of lists and tax assessments.*—(1) A valuation list as for the time being in force, or an extract from any such list, may be proved by the production of a copy of the list, or of the extract, purporting to be certified by the clerk of the rating authority to be a true copy or extract, and the certificate shall state that all alterations required to be made in pursuance of the provisions of this Part of this Act in the list, or in the part of the list extracted, have been correctly made in the copy or extract so produced.

(2) Any rating authority on application by a surveyor of taxes shall furnish to him a copy of their valuation list as for the time being in force, or of any rate for the time being in force, or any extract from the rate

or list, on payment of a sum not exceeding the rate of five shillings for every hundred entries numbered separately, and the clerk of the rating authority shall, if required, certify the copy or extract in accordance with this section.

(3) Any county valuation committee, assessment committee, or rating authority may from time to time require the surveyors of taxes for their area to furnish to them (subject to payment therefor of a sum calculated at the rate aforesaid) a copy of the annual values for the time being in force for the purpose of income tax under Schedule A of the Income Tax Act, 1918, for all or any of the properties in that area :

Provided that nothing in the foregoing provision shall extend to annual values which by law are not allowed to be made public.

44. *Valuation list not to be rendered invalid by certain failures or omissions.*—Any failure on the part of a rating authority or assessment committee to complete any proceedings with respect to the preparation of a valuation list within the time required by this Part of this Act, or the omission from a valuation list of any matters required by this Part of this Act to be included therein, shall not of itself render the list invalid.

45. *Inclusion in one proceeding of separate hereditaments.*—Any occupier or ratepayer may include in the same objection, appeal or other proceeding under this Part of this Act all or any hereditaments of which he is or is deemed to be the occupier or ratepayer which are comprised in the same valuation list, although they are separately assessed in that list.

46. *Publication of notices.*—Any notice required to be published under this Part of this Act by an assessment committee or rating authority shall be published by affixing it in some public or conspicuous place or situation in the area affected and by publishing it in one or more newspapers circulating in the area of the committee or authority.

47. *Use of public rooms.* . . .

Part III.

General.

Existing officers and Transfer of Property, etc.

48–51.—*Transfer, etc. of existing officers.* . . .

52. *Transitional provisions.*—The provisions set out in the Seventh Schedule to this Act (which relate to the transfer of the property and liabilities of existing authorities and to other transitional matters), shall have effect for the purpose of bringing this Act into operation.

Expenses, Accounts, and Officers of Authorities.

53. *Expenses.*—(1) Any expenses incurred under this Act by an assessment committee, including the costs of an appeal awarded against or incurred by the committee under this Act, shall, where the assessment area consists of one rating area, be charged on that area, and shall, where the assessment area comprises two or more rating areas, be

charged on those areas respectively in proportion to the rateable values of all property therein, and precepts may be issued by the assessment committee to rating authorities accordingly.

(2) An assessment committee may repay to any members of the committee attending conferences held by county valuation committees under this Act any travelling and subsistence expenses which may have been reasonably incurred, by those members in so attending, and any sums so repaid by an assessment committee to any of its members shall be treated as part of the expenses of the committee under this Act.

A county valuation committee may make similar repayments in the case of any members of the committee who are members of the council of the county, and any expenses incurred by a county valuation committee under this Act shall be defrayed as expenses for general county purposes.

(3) Where it appears to an assessment committee that an appeal under this Act in respect of a hereditament included in the valuation list for another area involves a principle which may affect the rateable value of property in the area of the committee, it shall be lawful for the committee to enter into an agreement with the assessment committee who are the respondents to the appeal to make a reasonable contribution towards any costs which may be incurred or be payable by that other committee in connection with the appeal.

(4) Any expenses incurred under this Act by a rating authority shall be paid out of the general rate raised by the authority for their area, or if incurred during the interval before the first general rate for the area is made under this Act, out of the poor rate.

(5) Any sums received under this Act by any authority, not being receipts from a rate, shall, subject to the foregoing provisions of this Act, be applied in the reduction of the expenses of the authority under this Act.

54. *Accounts of assessment committees, etc.* . . .

55. *Power of rating authorities, assessment committees, and county valuation committees to appoint officers.*—(1) It shall be lawful for rating authorities, assessment committees, and county valuation committees to appoint for the purposes of this Act such rating officers, valuation officers and other officers as they think fit, and to pay to any officers so appointed such reasonable salaries as they think fit.

(2) Where any officer appointed by a rating authority under this section or transferred to them by this Act is entrusted with the custody or control of money, the rating authority, unless a policy of guarantee or other security is in force of such an amount as may reasonably be expected to cover any loss in the event of a default of the officer, shall obtain a policy of guarantee, or other security, of adequate amount, for the due performance by the officer of his duties.

(3) Any security obtained by a rating authority under this section shall remain in full force notwithstanding any alteration in the boundary of the rating area, or any change in the district for which the officer is to act.

(4) The rating authority may defray the cost of any security obtained by them under this section, and every such security shall be produced to the district auditor at the audit of the accounts of the rating authority.

56. *Authority to clerk to collect rates.*—The rating authority may either generally or in respect of any special proceeding by resolution

authorise their clerk to institute, carry on, or defend proceedings in relation to the collection or recovery of rates which the rating authority are themselves authorised to institute, carry on, or defend.

Miscellaneous.

57. *Constitution of Central Valuation Committee for promoting uniformity in valuation.*—(1) For the purpose of promoting uniformity in valuation there shall be constituted, in accordance with a scheme to be made by the Minister after consultation with local authorities and associations of local authorities and any organisation representing assessment committees constituted under the Union Assessment Acts, 1862 to 1880, a Central Valuation Committee consisting of members of rating authorities, county valuation committees, and assessment committees, and of such other persons, if any, not being officers of the Department of Inland Revenue as may be provided by the scheme.

(2) The Central Valuation Committee shall take into consideration the operation of this Act and shall give to the Minister such information and make to him such representations in respect thereto as they may consider desirable for promoting uniformity and removing inequalities in the system of valuation, and shall for those purposes hold conferences or otherwise consult with such persons or bodies as they think desirable.

(3) Any rating authority, county valuation committee, or assessment committee may, subject to the provisions of the scheme, make contributions towards the expenses of the Central Valuation Committee.

(4) The Central Valuation Committee shall submit to the Minister an annual report of its proceedings.

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58. *Power to make rules.*—(1) The Minister, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe anything which by this Act is to be prescribed and the form of any rate, demand note, valuation list, statement, return or other document whatsoever which is required or authorised to be used under or for the purposes of this Act.

(2) Every rule made under this section shall be laid before both Houses of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such rule is laid before it praying that the rule may be annulled it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new rule.

59. *Service of notices, etc.*—(1) Any notice, demand note, order or other document required or authorised to be sent or served under or for the purposes of this Act may be sent or served either—

(*a*) by delivering it to the person to or on whom it is to be sent or served ; or

(*b*) by leaving it at the usual or last known place of abode of that person, or in the case of a company at its registered office ; or

(*c*) by forwarding it by post addressed to that person at his usual or last known place of abode, or in the case of a company at its registered office ; or

(*d*) by delivering it to some person on the premises to which it relates or (except in the case of a document being a summons) if there

is no person on the premises to whom it can be so delivered, then by fixing it on some conspicuous part of the premises ; or

(*c*) without prejudice to the foregoing provisions of this subsection, where the hereditament to which the document relates is a place of business of the person to or on whom it is to be sent or served, by leaving it at, or forwarding it by post addressed to that person at, the said place of business.

(2) Any notice, demand note, order or other document by this Act required or authorised to be served on the owner or occupier of any premises may be addressed by the description of the " owner " or " occupier " of the premises (naming them), without further name or description.

(3) Any notice, demand note, order or other document of any description required or authorised for the purpose of this Act to be sent or transmitted to or served on any public or local authority (including an assessment committee) shall be deemed to be duly sent, transmitted or served if in writing and delivered at or sent by post to the office of the authority addressed to that authority or to their clerk, and any notice, demand note, order or other document required or authorised to be sent, transmitted or served under this Act by any authority or body shall be sufficiently authenticated if signed by the clerk of the authority or body.

60. *Inspection of documents.*—(1) Any ratepayer (whether a ratepayer in the rating area to which the documents relate or in some other area) may at all reasonable times, on payment, in the case of a document which is more than ten years old, of such fee as may be prescribed (*a*), and in any other case, without payment, inspect and take copies of and extracts from any rate book (whether current or closed), draft list, valuation list, notice of objection, proposal for amendment of the valuation list, notice of appeal, record of totals, valuation made by a valuer appointed by an assessment committee or minutes of the proceedings under this Act of any such committee or of a rating authority.

(2) If any person having the custody of any document to which this section applies—

(*a*) obstructs any person in making any inspection or copy thereof or extract therefrom which he is entitled to make under this section ; or

(*b*) demands, when not authorised by this Act, a fee for allowing him so to do ;

he shall on summary conviction be liable for each offence to a fine not exceeding five pounds.

(3) Subsection (5) of section fifty-eight of the Local Government Act, 1894 (which provides for the inspection of documents belonging to the council of a rural district), shall not apply as respects any document to which this section applies, or any other document which is required or authorised to be used under or for the purposes of this Act.

(4) For the purposes of this section the expression " ratepayer " includes an occupier who pays a rent inclusive of rates, and also includes any person authorised by a ratepayer to act on his behalf under this section.

61. *Provisions as to inquiries.* . . .

(*a*) See Inspection of Documents Rules, 1927, St. R. & O. 1927, No. 76, *infra*.

62. *Abolition of overseers and transfer of their powers and duties.*—(1) After the appointed day overseers shall cease to be appointed, and His Majesty may by Order in Council to be made at any time after the passing of this Act provide, subject to the provisions of this Act, for the transfer as from the appointed day to rating authorities, or such other local authorities or persons as seems expedient, of the powers and duties of and any property vested in overseers, and any such Order may contain such supplemental and consequential provisions as appear to His Majesty to be necessary or expedient to make in connection with the abolition of the office of overseer.

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(3) Any reference in any Act or document to overseers in relation to any of their powers or duties shall be construed as references to the rating authority or to the other persons to whom those powers or duties are transferred by or in pursuance of this Act.

63. *Interest in municipal property not to disqualify.*—Subject to the provisions of this Act relating to appeals to quarter sessions, the interest of any council in any property of which they or the corporation for which they act are owners or occupiers shall not disqualify the council or any member thereof for acting under this Act in relation to that property.

64. *Savings.*—(1) Subject as otherwise expressly provided in this Act, nothing therein contained shall affect—

(*a*) the principles on which hereditaments are to be valued or any privilege or any provision for the making of a valuation on any exceptional principle ; or

(*b*) any exemption from or privilege in respect of rating conferred by any local Act or order on the occupiers of hereditaments in any particular part of a rating area or on the occupiers of any particular hereditaments ; or

(*c*) any provision in any local Act under which the owner of a hereditament is liable to pay or bear a portion of any rate in relief of the occupier without being entitled to any commission, reduction, or allowance in respect of that liability ; or

(*d*) any statutory provision authorising the appointment of a person to raise a rate on default being made by a local authority in performing any duty or making any payment ; or

(*e*) any exemption from rating under section thirty-three of the Highway Act, 1835 :

Provided that, for the purpose of any provision in any local Act conferring any exemption or privilege in respect of any rates which at the commencement of that Act were or might thereafter become leviable by an authority being an authority empowered to levy a general rate under this Act, such part of the general rate levied by the authority as represents rates which immediately before the appointed day were not levied by the authority shall not be deemed to be a rate levied by that authority.

(2) For the purpose of securing the continued operation, notwithstanding the passing of this Act, of any such privilege or exemption as aforesaid—

(*a*) the rating authority of every area in which immediately before the passing of this Act any such privilege or exemption was in force shall, before the appointed day, submit to the Minister

a scheme making provision, whether by deductions to be made from the net annual value or otherwise, for the purpose aforesaid ;

(*b*) if no such scheme is submitted by the rating authority before the appointed day, the Minister may himself make a scheme for the purpose aforesaid ;

(*c*) the provisions of paragraphs 2, 4 and 7 of Part III of the Second Schedule to this Act shall apply for the purpose of schemes made under this subsection as if such schemes were special schemes within the meaning of the said Part III ;

(*d*) subject to the foregoing provisions, a scheme duly approved or made by the Minister shall have effect as if enacted in this Act :

Provided that the rating authority and all persons interested in the hereditament may agree that the privilege or exemption shall be surrendered and extinguished in consideration of such payments as may be agreed between them.

(3) Where any hereditament is occupied by or on behalf of the Crown for public purposes—

(*a*) no gross value shall be determined or entered in the valuation list in respect of the hereditament ; and

(*b*) if any contribution is made by the Crown in aid of rates in respect of that hereditament, there shall be entered in the valuation list as representing the rateable value thereof the value upon which that contribution is computed, and the value so entered, or the amount of the contribution, as the case may be, shall be taken into account for the purpose of ascertaining totals or the proceeds of any rate, but the entry shall not affect any question as to contributions to be made by the Crown in respect of rates.

(4) The Minister may make orders for the purpose of giving to the Universities of Oxford and Cambridge, or any other body which under any Act is entitled to special representation on any assessment committee, similar rights of representation on assessment committees constituted under this Act, and, so far as necessary for that purpose, may modify any provisions of this Act relating to the constitution of assessment committees.

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65. *Exercise of powers by and assistance to new rating and assessment authorities.*—Notwithstanding anything in this Act, and without prejudice to the provisions of section thirty-seven of the Interpretation Act, 1889, it shall be lawful for every rating authority at any time after the commencement of this Act, and for every assessment committee at any time after the appointment of the committee, to exercise any powers or perform any duties vested in or imposed on them by this Act, other than any powers or duties to be transferred under this Act on the appointed day to the authority or committee from some other authority, and the guardians of unions, overseers and all assessment committees constituted under the Union Assessment Acts, 1862 to 1880, and the officers of all such guardians, overseers and committees, shall give to rating authorities and to assessment committees any assistance and information which they may respectively require for the purpose of enabling them to discharge their functions as aforesaid.

66. *Power to modify local Acts.*—(1) The Minister may by order make such adaptations in the provisions of any local Act as may seem to him to be necessary in order to make those provisions conform with the provisions of this Act.

(2) Every order made under this section shall be laid before both Houses of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that house has sat after any such order is laid before it praying that the order may be annulled it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new order.

67. *Power to remove difficulties.*—(1) If any difficulty arises in connection with the application of this Act to any exceptional area, or the preparation of the first valuation list for any area, or otherwise in bringing into operation any of the provisions of this Act, the Minister may by order remove the difficulty or constitute any assessment committee, or declare any assessment committee to be duly constituted, or make any appointment, or do any other thing, which appears to him necessary or expedient for securing the due preparation of the list or for bringing the said provisions into operation, and any such order may modify the provisions of this Act so far as may appear to the Minister necessary or expedient for carrying the order into effect:

Provided that the Minister shall not exercise the powers conferred by this section after the thirty-first day of March, nineteen hundred and twenty-nine.

(2) Every order made under this section shall be laid before both Houses of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it praying that the order may be annulled it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new order.

(3) In this section the expression "exceptional area" includes any county district which extends into two or more counties or is administered by the council of another district, and any parish which extends into two or more counties or county districts, or which is not within the same district for municipal and sanitary purposes.

68. *Definitions.*—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"Rating area" means the area of a rating authority:

"Urban rating area" means a rating area being a county borough or an urban district:

"Rural rating area" means a rating area being a rural district:

"Assessment committee" means the assessment committee constituted under this Act:

"Valuation list" means the valuation list made under this Act:

"Rate" means a rate the proceeds of which are applicable to local purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined, but does not include—

(*a*) any rate which is assessed under any commission of sewers, or in respect of any drainage, wall, embankment, or other work for the benefit of the land ; or

(*b*) any rate of the description commonly known as a church rate, a tithe rate, or a rector's rate, or any other rate of a similar character ; or

(*c*) any rate which is leviable by the conservators of a common ; or

(*d*) any rate payable by consumers for a supply of water ; or

(*e*) any rate of the description commonly known as a garden rate or square rate, if levied by any persons other than a rating authority :

Provided that nothing contained in the foregoing definition of the expression "rate" shall affect the construction of the expression "usual tenant's rates" in this Act, and that expression shall be construed as if this Act had not passed :

"Ratepayer" means every person who is liable to any rate in respect of property entered in any valuation list :

"Owner" means any person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive that rent if the lands or premises were let at a rack-rent :

"Gross value" means the rent at which a hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes, and tithe rentcharge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent :

Provided that, in estimating the annual rental value of a hereditament to a tenant, no account shall be taken of the value of any services which the landlord renders, or procures to be rendered, to the tenant (either alone or in common with other tenants of the landlord) other than the provision of, or repairs to, or maintenance of, the hereditament :

"Hereditament" means any lands, tenements, hereditaments or property which are or may become liable to any rate in respect of which the valuation list is by this Act made conclusive :

"Agricultural land" means agricultural land within the meaning of the Agricultural Rates Acts, 1896 and 1923 :

"Woodlands" includes land used for a plantation or a wood, or for the growth of saleable underwood or for both such purposes, and not subject to any right of common :

"Financial year" means the year ending on the thirty-first day of March :

"The Minister" means the Minister of Health :

"Local authority" means any body having power to levy a rate or to issue a precept to a rating authority :

"Clerk," in relation to any authority or body, includes any officer of the authority or body authorised by them to act on their behalf either generally or in relation to any particular matter :

"The appointed day" means the first day of April, nineteen hundred and twenty-seven :

"Date of the first new valuation" means in relation to any rating

area or part of a rating area the date on which the first new valuation list made under Part II of this Act for that area or part comes into operation :

" Local Act " includes a Provisional Order confirmed by Act of Parliament.

(2) In the case of tithe rentcharge as defined in the Tithe Act, 1891, references in this Act to an occupier shall be construed as references to an owner as so defined.

(3) References in this Act to assessment committees constituted under the Union Assessment Acts, 1862 to 1880, shall be construed as including references to assessment committees constituted under any local Act.

(4) In this and every other Act, whether passed before or after this Act, the expression " parish " shall, unless the contrary intention appears and subject to any alteration of area made on or after the appointed day by or in pursuance of any Act, mean a place for which immediately before the appointed day a separate poor rate was or could be made or a separate overseer was or could be appointed, and in this Act also includes, unless the context otherwise requires, any part of a parish being either a contributory place or an area otherwise subject to separate or differential rating.

69. *Repeal, construction of references, etc.*—(1) The enactments mentioned in the Eighth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule, and so much of any other Act, whether public or local and personal, as authorises any valuation of a hereditament to be made for the purposes of any rate in respect of which the valuation list is by this Act made conclusive, or any assessment of any such rate to be made except on the basis of that valuation list, shall also be repealed.

(2) References in any Act or document to any rate in lieu of which a general rate under this Act is levied or to any rate in lieu of which a special rate under this Act is levied shall, unless the context otherwise requires and subject as hereinafter provided, be construed as references respectively to the general rate and the special rate :

* * * * * *

References in any Act or document to gross value or gross estimated rental or to net annual value or rateable value as determined by valuation lists made under the Union Assessment Acts, 1862 to 1880, . . . shall, unless the context otherwise requires, be construed as references to gross value or net annual value, as the case may be, as determined under this Act :

* * * * * *

References in any Act or document to the assessment committee or to the valuation list or supplemental list, under the Union Assessment Acts, 1862 to 1880, shall, unless the context otherwise requires, be construed as references to the assessment committee under this Act, and the valuation list under this Act :

Any document referring to any enactment hereby repealed shall, unless the context otherwise requires, be construed to refer to this Act or to the corresponding enactment of this Act.

(3) During the period between the appointed day and the date of the first new valuation the assessment committee for any assessment area and the rating authority for any rating area shall, in relation to

valuation lists for any parishes within their area, exercise respectively all such powers and perform all such duties as might have been exercised or performed by an assessment committee constituted under the Union Assessment Acts, 1862 to 1880, or by overseers of the poor.

(4) This section shall come into operation on such date as may be fixed by the Minister, and the Minister may fix different dates for different purposes and in relation to different areas.

70. *Extent and short title.*—(1) This Act shall not extend to Scotland, Northern Ireland or the administrative county of London.

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(3) This Act may be cited as the Rating and Valuation Act, 1925.

FIRST SCHEDULE.

Section 17.

PROVISIONS WITH RESPECT TO ASSESSMENT COMMITTEES.

1. Subject to the provisions of this Act, the quorum, proceedings and place of meeting of an assessment committee shall be such as the committee determine, and meetings of the committee may be held at different places from time to time as the committee think proper having regard to the public convenience : Provided that—

(*a*) in the case of an assessment committee for an assessment area formed by the combination of two or more rating areas the place of meeting of the committee shall be such place or places, as is, or are, fixed in that behalf by or under the scheme constituting the assessment area ; and

(*b*) the quorum shall not in any case be less than three.

2. The chairman at any meeting of the assessment committee shall, in case of an equal division of votes, have a second or casting vote.

3. The chairman at any meeting of the assessment committee may, with the consent of the committee, adjourn the meeting from time to time as may be thought fit, and may postpone the hearing or further hearing and determination of any objection.

4. On a casual vacancy occurring in an assessment committee by reason of the death, resignation, disqualification of a member, or otherwise the authority by whom that member was appointed or nominated shall appoint or nominate another person in his place, and the person so appointed or nominated shall hold office until the time when the person in whose place he is appointed or nominated would regularly have gone out of office.

5. The proceedings of an assessment committee shall not be invalidated by any vacancy among its members, or by any defect in the election, appointment or qualification of any member thereof.

6. The minutes of the proceedings of an assessment committee shall be kept in a book provided for that purpose, and a minute of those proceedings signed at the same or next subsequent meeting of the committee by the person acting as chairman at the meeting at which the minute is signed, shall be received in evidence without further proof.

7. Every assessment committee shall in the month of April in every year send a report in the prescribed form of their proceedings during the last preceding year to every local authority represented on the committee, to the Minister, and to the Central Valuation Committee.

8. Until the contrary is proved, an assessment committee shall be deemed to have been duly constituted and to have had power to deal with any matters referred to in its minutes.

9. An assessment committee may sue and be sued in the name of their clerk, and an action by or against an assessment committee shall not abate by the death or removal of the clerk, but shall continue as if the clerk for the time being were the plaintiff or defendant therein.

10. The term of office of each member of an assessment committee shall be such period not exceeding five years as the body of persons by whom that member is appointed may determine, but a member of the committee may resign his office.

11. A member of an assessment committee shall not be qualified to act on the hearing or determination of or otherwise in connection with any matter relating to any hereditament in which he is interested, as owner, occupier or otherwise.

12. No person who is a member of any committee to which the duties of the rating authority with respect to the preparation of the valuation list are delegated shall be qualified for appointment as a member of the assessment committee, and no authority shall appoint or nominate as its representative on an assessment committee any person who is an officer of the authority, and subsection (1) of section forty-six of the Local Government Act, 1894 (which disqualifies certain persons for membership of the council of a county district), shall apply as if for the references therein to the council of a county district there were substituted references to the assessment committee.

13. No member of the assessment committee shall receive any remuneration or other like payment in respect of his services as a member of the assessment committee.

SECOND SCHEDULE.

Sections 9, 22, and 64.

Ascertainment of Rateable Value.

Part I.

Deductions from Gross Value.

(1) Class of Hereditaments.	(2) Amount of Deduction.
(1) Houses and buildings without land, other than gardens, where the gross value does not exceed 10*l.*	An amount equal to 40 per cent. of the gross value.
(2) Houses and buildings without land, other than gardens, where the gross value exceeds 10*l.* but does not exceed 20*l.*	4*l.* or an amount equal to 33⅓ per cent. of the gross value, whichever is the greater.
(3) Houses and buildings without land, other than gardens, where the gross value exceeds 20*l.* but does not exceed 40*l.*	7*l.* or an amount equal to 25 per cent. of the gross value, whichever is the greater.
(4) Houses and buildings without land, other than gardens, where the gross value exceeds 40*l.* but does not exceed 100*l.*	10*l.* or an amount equal to 20 per cent. of the gross value, whichever is the greater.
(5) Houses and buildings without land, other than gardens, where the gross value exceeds 100*l.*	20*l.* together with an amount equal to 16⅔ per cent. of the amount by which the gross value exceeds 100*l.*
(6) Land (other than agricultural land) with buildings valued together therewith as one hereditament.	An amount equal to 10 per cent. of the gross value.
(7) Land (other than agricultural land) without buildings.	An amount equal to 5 per cent. of the gross value.

(1) Class of Hereditaments.	(2) Amount of Deduction.
(8) Agricultural land – – – – – –	An amount equal to 5 per cent. of the gross value.

NOTE.—For the purposes of this Part of this Schedule the expression "houses and buildings" does not include mills, manufactories or premises of a similar character used wholly or mainly for industrial purposes or hereditaments valued as part of any railway, dock, canal, gas, water, electricity, or other public utility undertaking.

PART II.

Deductions to be made from Net Annual Value.

(1) Class of Hereditaments.	(2) Amount of Deduction.
(1) Agricultural land – – –	(1) Seventy-five per cent. of the net annual value.
(2) Buildings (other than dwelling-houses) occupied together with agricultural land or being or forming part of a market garden and in either case used solely in connection with agricultural operations thereon.	(2) Seventy-five per cent. of the net annual value.
(3) Tithes, tithe commutation rent-charge, and other payments in lieu of tithe, issuing out of any land, and any land used as a railway constructed under the powers of any Act for public conveyance or as a canal or towing-path for a canal, any land covered with water, ~~and~~ ~~any woodlands~~— (*a*) if the land is situate in a county borough or urban district in which a consolidation of rates takes effect by virtue of this Act: (*b*) if the land is situate in any other county borough or urban district, being a borough or district in which a consolidation of rates was authorised by a local Act passed before the commencement of this Act.	(3*a*) Subject to the provisions of Part III of this Schedule, such percentage of the net annual value as corresponds with the average relief from rating to which, in the part of the rating area in which the land is situate, occupiers of that class of hereditaments were entitled, otherwise than under any temporary Act, between the first day of April, nineteen hundred and fourteen, and the thirty-first day of March, nineteen hundred and twenty-four. (3*b*) Such percentage of the net annual value as corresponds with the percentage of the relief from rating given by the local Act.

PART III.

Schemes for determining certain deductions in urban areas.

1. For the purpose of determining the amount of the deductions to be allowed in respect of the hereditaments belonging to class (3*a*) mentioned in Part II of this Schedule, the rating authority of every county borough or urban district shall, before the appointed day, submit to the Minister a scheme with respect to the said deductions, and the deductions to be allowed as aforesaid

shall, if the scheme is approved by the Minister, be such deductions as are specified in the scheme, or, if the scheme is not approved by the Minister, or if no scheme is submitted by the rating authority before the appointed day, be such as the Minister may direct:

Provided that—

(*a*) Where either—

(i) differential rating provisions not of a permanent character were in operation in the county borough or urban district during the period of ten years beginning on the first day of April, nineteen hundred and fourteen, or during some part of that period; or

(ii) the county borough or urban district was created or extended at some time between the said first day of April and the appointed day,

the scheme to be submitted under this Part of this Schedule shall be a special scheme, in the making of which the basis prescribed by Part II of this Schedule for determining the amount of the said deductions shall be applied with such modifications and adaptations as in the special circumstances of the case will secure a fair and equitable percentage of deduction;

(*b*) where the average relief from rating to which occupiers of hereditaments of the classes in question in any rating area were entitled was not the same in all parts of that area, the scheme or special scheme may nevertheless make provision, on such basis as appears equitable, for a uniform percentage of deduction throughout the area.

2. A special scheme submitted as aforesaid may be approved by the Minister, either with or without modification, and the Minister shall, before approving such a scheme, publish, in such manner as he thinks proper, notice of his intention to approve the scheme and of his proposed modifications, if any, and if any person, being a person who will in the opinion of the Minister be affected by the special scheme, gives notice in writing to the Minister that he objects to it, the Minister before approving it shall, unless the objection is withdrawn, direct a local inquiry to be held for the purpose of determining whether the scheme ought or ought not to be approved, and if the Minister after receiving the report of the inquiry is of opinion that the scheme ought to be approved, either as originally submitted to him or with any modifications, he may approve the scheme accordingly, and any scheme so approved shall, unless the objection is withdrawn, be a provisional scheme only and shall have no effect unless and until it is confirmed by Act of Parliament.

3. Where by any order a county borough or urban district is created or extended on or after the appointed day, there shall be included in the order such provisions as may be necessary for determining the amount of the deduction which is to be made from net annual value in respect of hereditaments included in Class (3) of the hereditaments specified in the first column of Part II of this Schedule, and any authority making or confirming such an order shall, before so doing, consider any representations which may be made to them by persons interested with respect to the provisions for determining the amount of the deduction.

4. The Minister may make regulations with respect to the preparation and submission of schemes under this Schedule and matters incidental thereto.

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6. The Minister may by order direct, in any cases where it appears to him to be expedient so to do, that the percentage of any deduction under Part II of this Schedule shall be increased or reduced to the nearest integral amount.

7. The Minister may, on an application in that behalf made by any person affected by a scheme under this Schedule and after publishing notice of the proposed order in such manner as he thinks proper, by order vary or amend the scheme as he thinks proper:

Provided that, if any person, being a person who will in the opinion of the Minister be affected by the proposed order, gives notice in writing to the Minister that he objects to the proposed order, the Minister shall, before making the order, direct a local inquiry to be held for the purpose of determining whether the order ought or ought not to be made, and if the Minister after

receiving the report of the inquiry is of opinion that the order ought to be made either as originally proposed by him or with any variations or modifications, he may make the order accordingly, but any order so made shall, unless the objection is withdrawn, be a provisional order only and shall not be of any validity unless and until it has been confirmed by Act of Parliament.

THIRD SCHEDULE.

Section 24.

CLASSES OF MACHINERY AND PLANT TO BE DEEMED TO BE PART OF THE HEREDITAMENT.

(*See Statement substituted for this Schedule by the Plant and Machinery (Valuation for Rating) Order, 1927, St. R. & O. 1927, No. 480, infra.*

FOURTH SCHEDULE.

Sections 25, 26, 27.

PROVISIONS WITH RESPECT TO PREPARATION OF VALUATION LISTS.

PART I.

Deposit and Inspection of Draft List.

1. The rating authority shall deposit the draft list at the offices of the authority.

2. The rating authority shall, immediately upon the deposit of the draft list, give to the county valuation committee and publish notice of the deposit, and the notice shall state the latest date at which and the mode in which objections to the draft list may be made.

3. Where there is included in the draft list as deposited some hereditament not previously assessed, or where the gross or net annual or rateable value assigned in the draft list to some hereditament exceeds the value as stated in the valuation list for the time being in force, or, where there is no such valuation list, as stated in the then last assessment to the poor rate, the rating authority shall within seven days after the deposit of the draft list send to the occupier of the hereditament affected a notice of the gross, net annual and rateable values thereof inserted in the draft list.

4. The draft list so deposited shall be open to inspection for twenty-one days from the date on which notice of the deposit of the list is published.

5. Immediately on the expiration of the said period of twenty-one days the rating authority shall cause the draft list to be transmitted to the assessment committee.

PART II.

Notices of Objection.

1. A notice of objection must specify the grounds of objection.

2. The assessment committee shall, within three days after the date on which an objection is lodged with them, cause a copy thereof to be sent to each of the following persons, not being the objector, that is to say—

(*a*) to the rating authority; and

(*b*) where the objection relates to a particular hereditament, to the occupier of that hereditament.

PART III.

Meetings for hearing Objections.

1. Meetings for hearing objections to the draft list may be held at any time after the expiration of thirty days from the date on which the list was deposited, or on any earlier date, if in the opinion of the assessment committee such

number of objections have been received by that date as to make it desirable to hold a meeting, and the rating authority signify to the committee that they are ready to attend a meeting on that earlier date.

2. The assessment committee shall, at least fourteen days before holding a meeting for hearing objections, not being an adjourned meeting, cause notice of the meeting to be given to the rating authority of any area in which are situate any hereditaments to which the objections to be considered at the meeting relate, and shall at least fourteen days before the date on which any objection will be heard by the committee cause notice of the date to be given to the objector and to the occupier of the hereditament to which the objection relates, where such occupier is not the objector.

3. On the consideration of an objection any valuer employed by the assessment committee to value the hereditament to which the objection relates may be called as a witness.

4. No person, being either a party to the objection, or a witness in the case, or a valuer employed by the assessment committee, shall be present while the assessment committee are considering their decision on an objection.

5. The assessment committee shall forthwith after determining an objection send notice of their decision to the objector and to the occupier of the hereditament affected, where such occupier is not the objector, and to the rating authority.

6. Every such notice as aforesaid of the decision of the assessment committee on an objection shall state that any person who is a party to the objection may, if aggrieved by the decision, appeal against it, and shall specify the time within which and the manner in which such an appeal may be made.

7. Where the assessment committee, in pursuance of the provisions of Part II of this Act, alter the draft list on revision, otherwise than in determining an objection, by inserting therein some hereditament or by raising the gross or net annual or rateable value of some hereditament included therein, the assessment committee shall forthwith serve notice of the alteration on the occupier of the hereditament affected.

8. Every notice of an alteration made in the draft list by the assessment committee otherwise than in determining an objection, being a notice served on a person under the foregoing provisions of this Part of this Schedule, shall state that any person aggrieved by the alteration may lodge an objection to the alteration at any time within fourteen days after the date on which the notice is served on him, and that any such objection if lodged will be heard by the assessment committee on a date which will be duly notified to the person making the objection.

9. Except as otherwise expressly provided in this Act, the provisions of this Act relating to objections to the draft list as deposited shall apply with reference to objections to any alterations, insertions or corrections made by the assessment committee on the revision of the draft list otherwise than in determining an objection.

10. The assessment committee shall not be required to hear and determine all objections to the draft list before finally approving it, and if any objection is not heard and determined before the draft list is finally approved, it shall be heard and determined as soon as possible thereafter, and with the like consequences as if it had been a proposal duly made for the amendment of the current valuation list which had been served on the rating authority on the date on which that list comes into force.

FIFTH SCHEDULE.

Section 31.

APPEALS TO QUARTER SESSIONS.

PART I.

Notices of Appeal.

1. Notice of appeal must be given to the clerk of the court to which the appeal is made before the expiration of twenty-one days after the date on which the valuation list is finally approved.

2. A copy of the notice of appeal must also be served by the appellant within the time allowed for giving notice of the appeal on the assessment committee and on each of the following persons not being the appellant, that is to say :—

(*a*) the rating authority ;
(*b*) where the appeal relates to a particular hereditament, the occupier of that hereditament.

3. The notice of appeal must specify the grounds of appeal.

4. The clerk of the court on receiving a notice of appeal shall, without any application in that behalf, enter the appeal for hearing at the next sitting of the court to be held after the expiration of thirty-five days from the date on which the list was finally approved, but the court may, on an application made by any party to the appeal, direct that the hearing shall be postponed and entered for some subsequent sitting of the court.

PART II.

Provisions with respect to Arbitrations.

1. Where any matter is referred to arbitration under the provisions of this Act relating to appeals to quarter sessions the arbitrator to act shall be such person as may be agreed on by the parties or, in default of agreement, appointed by the President of the Surveyors Institution.

2. The parties to an arbitration may before entering on the reference agree in writing that the award of the arbitrator shall be final and conclusive on all questions whether of fact or law, and where any such agreement is made, the provisions of the Arbitration Act, 1889, as to the power of an arbitrator to state in the form of a special case an award or any question of law arising in the course of a reference shall not apply.

3. The costs of and incidental to the hearing before the arbitrator, and his award, shall be in the discretion of the arbitrator, and if not agreed by the parties, shall be taxed as part of the costs of the appeal to quarter sessions.

SIXTH SCHEDULE.

Section 49.

PROVISIONS AS TO THE DETERMINATION AND PAYMENT OF COMPENSATION TO OFFICERS.

* * * * * *

SEVENTH SCHEDULE.

Section 52.

TRANSITIONAL PROVISIONS.

Transfer of Property and Liabilities.

* * * * * *

2.—(1) All valuation lists, rate books or other books of account, or documents relating to the making, levying or collection of rates, which at the appointed day are in the custody of the vestry clerk or of the overseers of a parish or any other authority whose rating powers and duties are by this Act transferred to rating authorities shall be under the control of the rating authority of the rating area comprising that parish, and subject to the right of the overseers or any parochial officer to the custody of such books or documents for the purpose of the making up and audit of accounts, shall be deposited in such custody as the rating authority may direct.

* * * * * *

(3) The assessment committee shall be entitled to the possession and control of any valuation lists, notices of objection, minute books and other

books or documents wholly relating to business of the assessment committee appointed by the board of guardians, which at the appointed day are in the possession or under the control of the assessment committee of the guardians :

Provided that, where a poor law union is not wholly comprised within one assessment area, any such book or document, which does not wholly relate to a parish or parishes within one assessment area, shall be transferred by the assessment committee of the guardians to the assessment committee for that assessment area which contains according to the returns of the census of nineteen hundred and twenty-one the largest proportion of the total population of that poor law union, but the assessment committee for an assessment area which comprises any part of such poor law union shall have a right of inspecting any book or document transferred to the assessment committee for any assessment area comprising any part of that union, and of making copies of, or extracts therefrom, free of charge.

(4) Nothing in this paragraph shall affect the right of any ratepayer or other person to inspect or to make copies of, or extracts from, any book or document transferred or deposited thereunder.

* * * * * *

6.—(1) All sums due on the appointed day in respect of rates made before the appointed day shall be collected and recovered by the rating authority of the rating area, . . .

* * * * * *

8.—(1) All proceedings, legal and other, begun before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act, and of any order or scheme made thereunder.

* * * * * *

Provisions as to Poor Rates and County Contributions.

9. Where the rating authority of an urban rating area, comprising two or more parishes, at any time between the appointed day and the date on which the power to make a general rate for the area comes into operation make and levy a poor rate, they shall make a poor rate for the area instead of making separate poor rates for the parishes comprised in it :

Provided that, where by virtue of any precept or otherwise any amount is chargeable separately on any parish or part of the area, the rating authority shall levy that amount on that parish or part together with and as an additional item of the poor rate.

* * * * * *

EIGHTH SCHEDULE.

Section 69.

ENACTMENTS REPEALED.

(See Schedule to Repeals, etc. Order, 1927, St. R. & O. 1927, No. 90, *infra*.

APPENDIX II

STATUTORY RULES AND ORDERS

SUMMARY

PAGE

Rating and Valuation Act, 1925—
Returns Rules, 1926, St. R. & O. 1926, No. 795 – – – – 405
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[NOTE.—Those Rules and Orders, and those parts of Rules and Orders, only are set out which are germane to matters dealt with in the text. The Ascertainment of Rateable Values Orders, 1926 and 1927, made under Part III of the Second Schedule are not included; each of these applies only to the urban areas named therein.]

THE RATING AND VALUATION ACT (RETURNS) RULES, 1926.

The Rating and Valuation Act (Returns) Rules, 1926, dated June 30, 1926, made by the Minister of Health under section 58 of the Rating and Valuation Act, 1925, for prescribing the form of notices requiring returns to be made by occupiers, owners and lessees under sections 40 to 42 of the said Act. (St. R. & O., 1926, No. 795.)

* * * * * *

1. These rules may be cited as the "Rating and Valuation Act (Returns) Rules, 1926," and shall come into operation on the date hereof.

2. Subject to the provisions of the two next succeeding rules, every notice served by a rating authority under section 40 of the Rating and Valuation Act, 1925, upon the occupier, owner or lessee of any hereditament requiring him to make such a return as is mentioned in the said section shall be in the form shown in Part I of the schedule hereto, or in a form substantially to the like effect, and the particulars to be specified on the reverse side thereof shall include questions as to the matters mentioned in Part II of the said schedule.

3. A rating authority, if they think fit, may in the case of notices served upon the occupiers, owners or lessees of hereditaments of any particular class omit questions as to any of the matters mentioned in Part II of the schedule hereto which appear to them to be inappropriate to hereditaments of that class, and may in any case omit questions as to any of the said matters which appear to them to be inappropriate to a return to be made by an occupier or, as the case may be, by an owner or lessee, not being an occupier.

4. A rating authority may, if they think fit, in the case of notices served upon the owners or lessees of hereditaments, not being occupiers, serve one notice only in respect of two or more hereditaments of which the same person is the owner or lessee, and may in such case specify the hereditaments to which the notice relates in a schedule to be attached to the notice and framed in such manner, whether tabular or otherwise, as may appear to them most convenient for recording the required particulars.

5. Every notice served by an assessment committee under section 41 of the Rating and Valuation Act, 1925, upon the occupier, owner or lessee of any hereditament requiring him to make such a return as is mentioned in the said section shall be in the form shown in Part I of the schedule hereto, or in a form substantially to the like effect, and the particulars to be specified on the reverse side thereof shall include questions as to the matters mentioned in Part II of the said schedule, or questions as to such of those matters as appear to the assessment committee to be material.

SCHEDULE.

PART I.

Parish or Ward.....
No.....
County Borough, Borough or District of.....

RATING AND VALUATION ACT, 1925.

Notice requiring Return for the Assessment of Rateable Property.

To.....
or other The Occupier,
Owner or Lessee,
of.....

In pursuance of the provisions of the Rating and Valuation Act, 1925, you are hereby required to make with respect to the property above-mentioned [specified in the schedule annexed hereto] a true and correct Return of the particulars set out on the reverse side hereof [in the schedule annexed hereto] and to deliver such Return to me, the Officer duly authorised by the to make this requirement, at the under-mentioned address within twenty-one days from the service of this Notice.

Dated this day of 192 .

[*Name*].....
[*Address*].....
.....

Note :—By sections 40 and 41 of the Rating and Valuation Act, 1925, rating authorities and assessment committees are authorised to serve notice on the occupier, owner or lessee of any hereditament requiring him to make a return containing such particulars as may be reasonably required for the purpose of carrying out the Act ; and section 42 of the Act provides as follows :—

> " 42 (1) If any person on whom notice has been served under any of the provisions of the two sections of this Act last preceding fails without reasonable excuse to comply with the notice, he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for each day during which the default continues after conviction.
>
> (2) If any person wilfully makes or causes to be made a return under either of the two sections of this Act last preceding which is false in any material particular, he shall, without prejudice to any liability to be proceeded against under any other enactment, be liable on summary conviction in respect of each offence to a fine not exceeding fifty pounds."

By section 68 the expression " owner " means the person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive that rent if the lands or premises were let at a rack-rent.

REVERSE SIDE.

Return to be rendered by an occupier, owner or lessee of rateable property

Question.	*Answer.*
1.	1.
2.	2.
3.	3.

DECLARATION.

I declare that the foregoing particulars are in every respect fully and truly stated to be the best of my judgment and belief.

Given under my hand this day of 192 .

.....Occupier (owner *or* lessee).

..... Profession or Occupation and Business Address.

PART II.

1. Situation of property, including name of street or road and name and/or number of property.

2. Name of occupier, or of each joint occupier.

3. Name and address of owner. (If not known, name and address of agent or person to whom rent is paid, the word "agent" being added in such a case).

4. Description of property, including—

(*a*) Particulars of any cottages, stables, garages or other outbuildings;

(*b*) Estimated extent (i) of agricultural land and woodlands, and (ii) of gardens or other land (not covered by buildings), if exceeding an area to be specified.

5.—(1) Whether the property is occupied (*a*) wholly as a private residence, or (*b*) partly as a private residence and partly for trade or business purposes, or (*c*) solely for trade or business purposes.

(2) Nature of the trade or business carried on, if any.

6. Particulars as to the extent of occupation where part only of the property is occupied by the person making the return, including information as to parts (if any) let off, and as to payments received therefor, or for advertising or other rights or privileges.

7. (*a*) Rent (if any) payable or receivable per week, quarter, year or other period by person making the return;

(*b*) the date when such rent was fixed;

(*c*) whether such rent includes rates (in whole or in part), or water rates, or covers any other services—the nature and value of any such services to be specified;

(*d*) whether the landlord or the tenant undertakes to bear in whole or in part, and, if in part, to what extent, the cost of repairs, insurance and other expenses necessary to maintain the property.

8. Whether the property is held under lease or agreement in writing, and, if so, particulars as to—

(*a*) the date of commencement thereof;

(*b*) the term for which granted;

(*c*) any consideration other than rent (*e.g.*, money premium, surrender of any existing lease, or agreement to lay out money for the improvement of the property);

(*d*) amount of ground rent where ground rent only is paid.

9. Information as to any alterations or improvements carried out during the preceding five years.

10. Information as to the annual amount of and liability of landlord or tenant for—(a) land tax (if any); (*b*) tithe rentcharge or payment in lieu of tithes (if any); (*b*) tithe rentcharge or payment in lieu of tithes (if any); (*c*) land drainage rates or other similar charges (if any).

11. In the case of flats, tenements and other property let out in parts, such of the foregoing particulars as are appropriate and, in addition thereto, the following particulars—to be required from the owner or lessee, not being the occupier—with respect to the separate lettings (including any parts unoccupied)—

(*a*) number of each part, if separately numbered;

(*b*) rooms in each part;

(*c*) floor or floors on which each part is situated;

(*d*) special services rendered by the landlord and covered by the rent.

THE RATING AND VALUATION ACT (FORM OF VALUATION LIST) RULES, 1926.

The Rating and Valuation Act (Form of Valuation List) Rules, 1926, *dated June* 30, 1926, *made by the Minister of Health under section* 58 *of the Rating and Valuation Act*, 1925, *for prescribing the form of valuation list to be used for the purposes of the said Act, the form of the declaration and certificate to be appended to such list and the particulars with respect to totals of values to be inserted in such list and to be recorded.* (St. R. & O. 1926, No. 796.)

* * * * * *

1.—(1) These rules may be cited as the Rating and Valuation Act (Form of Valuation List) Rules, 1926, and shall come into operation on the date hereof.

(2) In these rules, unless the context otherwise requires—

" the Act " means the Rating and Valuation Act, 1925 ;

" valuation list " includes a draft valuation list ;

" agricultural land " means agricultural land within the meaning of the Agricultural Rates Acts, 1896 and 1923 (*a*) ;

" agricultural buildings " means buildings (other than dwelling-houses) occupied together with agricultural land, or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon ;

" farm house " means a dwelling-house occupied together with agricultural land by a person carrying on or directing agricultural operations thereon, but does not include a dwelling-house normally occupied by a workman or labourer ;

" parish " includes any part of a parish being either a contributory place or an area otherwise subject to separate or differential rating.

2. Subject as hereinafter provided, every valuation list made under the provisions of the Act shall incorporate the form A in the schedule hereto, and the declaration and certificate required to be appended thereto shall be in the Form B in the said schedule :

Provided that, in the case of a valuation list for an urban rating area, columns 10*a*, 10*b*, and 10*c* of Form A (which relate to agricultural hereditaments) and, in the case of any valuation list, column 11 (which relates to certain properties entitled to partial relief from rating) may respectively be omitted from any page of a list which contains no hereditament in respect of which an entry would be necessary in such a column.

3. Where a rating area comprises two or more parishes (as defined in rule 1), the particulars relating to all the hereditaments in each parish shall be contained in a separate and distinct portion of the valuation list, and at the end of each portion there shall be left such blank space as may be estimated to be necessary for the addition of particulars relating to new hereditaments.

4. The hereditaments contained in each portion of a valuation list, shall, subject to any directions given by the assessment committee, be

---

(*a*) 59 & 60 Vict. c. 16 and 13 & 14 Geo. 5, c. 39. *See* Appendix I.

entered therein in such order as the rating authority may think convenient :

Provided that in all cases—

(*a*) hereditaments specified in class (3) of Part II of the second schedule to the Act shall be entered in one group after the entries relating to other rateable hereditaments in the parish ; and

(*b*) hereditaments occupied by or on behalf of the Crown for public purposes in respect of which a contribution is made by the Crown in aid of rates shall be entered in one group at the end of that portion of the list which relates to the parish.

5. A rating authority and an assessment committee shall comply with the following directions as to the entries to be made in the respective columns of the valuation list hereinunder referred to :—

Columns 1–10c.—Separate entries shall be made throughout these columns in respect of a farm house, agricultural buildings and agricultural land in the occupation of one person.

Column 6.—No entry in respect of estimated extent shall be necessary in the case of—

(*a*) a hereditament consisting of a dwelling-house, or other building, without land ; or

(*b*) a hereditament, not being agricultural land or woodlands, of which the estimated extent does not exceed one-quarter of an acre or is, in the opinion of the rating authority, otherwise immaterial.

Column 7.—No entry in respect of gross value shall be made in the case of a hereditament not belonging to any of the classes specified in Part I of the second schedule to the Act, or in the case of a hereditament occupied by or on behalf of the Crown for public purposes :

Column 8.—No entry in respect of net annual value shall be made in the case of a hereditament of which the net annual value and the rateable value are the same :

Columns 9, 10 (a) (b) *and* (c) *and* 11.—The rateable value of a hereditament shall be entered in that column which (according to the heading thereof) is appropriate to such hereditament :

Column 11.—The hereditaments of which the rateable values are to be entered in this column are tithes, tithe commutation rent-charge, and other payments in lieu of tithes, issuing out of any land, and any land used as a railway constructed under the powers of any Act for public conveyance or as a canal or towing-path for a canal, any land covered with water, and any woodlands :

Columns 7–11.—No entry shall be made in any of these columns in the case of a church, chapel or other hereditament so long as the occupier is wholly exempt from rating in respect thereof :

Provided, nevertheless, that in the case of any hereditament in respect of which such a payment or contribution is made as is mentioned in section 2 (7) or section 64 (3) of the Act the value upon which the amount of such payment or contribution is calculated shall be entered in the appropriate column as representing the rateable value of that hereditament.

6. A rating authority and an assessment committee shall comply

with the following directions as to the method of making corrections, insertions, alterations or amendments in a valuation list—

(i) a correction, insertion, alteration or amendment if made before approval of the list shall be made in ink of the same colour as that used in the preparation of the list, and if made after approval of the list shall be made in ink of a different colour :

(ii) a line shall be ruled through any words or figures which require to be omitted, or for which other words or figures are to be substituted, in such manner as to leave legible the original entries :

(iii) where a hereditament becomes divided into two or more hereditaments, the whole of the original entries may be struck out and the particulars with respect to the new hereditaments may be entered at the end of that portion of the list which relates to the parish, a reference to the page on which such particulars are to be found being inserted at the place where the original entries occur ;

(iv) every correction, insertion, alteration or amendment shall be authenticated by the responsible officer, whether of the rating authority or assessment committee, having for the time being the custody of the list, and such officer shall for that purpose enter the date and his initials in column 12.

7. Immediately before the approval of a valuation list the entries as to gross, net annual and rateable values in columns 7 to 11 (inclusive) shall be totalled at the foot of each page of the list and the total for each page shall be carried to a summary or summaries so arranged as to show in respect of (*a*) the rating area as a whole and (*b*) each parish (as defined in rule 1) the following information, viz.

(i) the totals of all the entries in each of the said columns, and

(ii) the grand total of all the rateable values entered in columns 9 to 11 (inclusive).

8. All corrections, insertions, alterations and amendments made in a valuation list after such list has been approved (including such as are made by direction of a Court of Quarter Sessions) shall be recorded in the minutes of the assessment committee, and the committee shall cause the necessary net additions or subtractions to be made to or from the relevant totals appearing in the summaries referred to in the last preceding rule.

9. Every assessment committee shall cause to be kept a book entitled "Record of Total Rateable Values," and shall cause to be entered therein in respect of each rating area and of each parish (as defined in rule 1),

(*a*) upon approval of a valuation list, such totals of values as are mentioned in paragraphs (i) and (ii) of rule 7 ; and

(*b*) whenever corrections, insertions, alterations or amendments are made, the net increase or decrease in any total resulting therefrom.

10. The copy of a deposited valuation list transmitted to an assessment committee in accordance with section 25 (2) of the Act shall be retained by the committee, who shall cause the entries therein to be corrected from time to time so that such copy may agree with the valuation list except in regard to figures recorded by the committee in a record of total rateable values.

SCHEDULE

A

Form of Valuation List

Assessment No.	Name of Occupier.	Name of Owner.	Description of property.	Name or situation of property.	Estimated extent.	Values.							Date of Amendment and initials of responsible officer.
						Gross Value where required to be ascertained.	Net Annual Value where it differs from Rateable Value.	Rateable Value.					
								Hereditaments not specified in later columns.	Agricultural Hereditaments.			Tithes, etc., land used as a railway or canal, etc., or covered with water, and woodlands.	
									Farm House.	Agricultural Buildings.	Agricultural Land.		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	10b.	10c.	11.	12.

B.

Form of Declaration and Certificate.

We do hereby declare and certify that the above valuation list was approved by the Assessment Committee for the Assessment Area at a meeting held this day, and that the provisions of the Rating and Valuation Act, 1925, have been duly complied with in respect to such list.

Dated this day of 19 .

A.B.
C.D.
E.F.
} Three members of the Committee present at the said meeting.

THE RATING AND VALUATION ACT (FORMS OF DEMAND NOTE) RULES, 1926.

The Rating and Valuation Act (Forms of Demand Note) Rules, 1926, dated June 30, 1926, made by the Minister of Health under section 58 of the Rating and Valuation Act, 1925, for prescribing the forms of demand notes to be used by rating authorities.

(St. R. & O. 1926, No. 798.)

Whereas by section 7 of the Rating and Valuation Act, 1925, provision is made with respect to the inclusion of certain information in the demand notes on which general rates and special rates are levied :

* * * * * *

1.—(1) These rules may be cited as the Rating and Valuation Act (Forms of Demand Note) Rules, 1926, and shall come into operation on the date hereof.

(2) In these rules,—

" demand note " does not include a demand note issued before the date of the first new valuation ;

" the Act " means the Rating and Valuation Act, 1925.

2. Every demand note for a general rate or a special rate shall incorporate Form A or Form B in the schedule hereto, as the case may be, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable by instalments.

3.—(1) In the case of every hereditament in respect of which an allowance may be claimed under subsection (1) or subsection (2) of section 11 of the Act, the rating authority, instead of entering the particulars specified in Form A or Form B (as the case may be) in the columns appearing upon the demand note, shall enter those particulars in a schedule or schedules to be referred to in, and attached to, the demand note (*a*).

(2) Any such schedule shall contain information with respect to the allowance which may be claimed, together with such provision, by way of additional columns or otherwise, as may be necessary or convenient for calculating the net amount due or remaining due.

(3) The rating authority, may if they see fit, make use of a schedule or schedules in the manner provided by paragraph (1) of this rule in any case where a person undertakes to pay the rates in respect of two or more hereditaments but is not entitled to claim any allowance referred to in the said paragraph.

(*a*) See Forms J, K, L, scheduled to the Rate Accounts Orders, *below*.

4. A rating authority in preparing demand notes, or schedules to be attached thereto, shall comply with the following directions :—

(1) Every hereditament to which the demand relates shall be entered separately, and the particulars relating to it shall be entered separately in the appropriate columns ;

(2) There shall be entered in the first column the number by which each hereditament to which the demand relates is distinguished in the rate book ;

(3) There shall be entered in the second column in respect of every hereditament to which the demand relates, if other than that specified in the address, the situation of that hereditament and, also, such brief description thereof as may be reasonably necessary for purposes of identification ;

(4) In cases where the net annual value of a hereditament is the same as the rateable value thereof, no entry shall be made in the column headed " Net Annual Value " :

Provided that, without prejudice to the right of a ratepayer to require a separate statement of the particulars relating to each hereditament, the rating authority may, where the same person is liable for or undertakes to pay the rates in respect of two or more dwelling-houses, combine the particulars relating to those houses in such manner, consistent with accountancy requirements, as in their opinion is convenient.

5. A demand note shall also include,—

(i) information with regard to the place and mode of payment ; and

(ii) in a rating area in which a resolution under section 8 of the Act (as to discount for prompt payment) is in force, information as to the effect of the resolution (including the date after which payment must be made in full).

6. A rating authority may include in a demand note for rates a demand for any water rate, rent or charge, or other rate, rent or charge payable to them, and may combine in one demand note demands for a general rate and for a special rate, provided that such combined demand note shall be so framed as to include all the information which by the Act and these rules would be required to be given to ratepayers if separate demand notes were issued.

7. There shall be included in every demand note a statement showing the amount in the pound which is being levied by the rating authority,—

(*a*) for their own purposes, and

(*b*) for the purposes of each authority by which a precept has been issued to them :

And such statement shall also show the amount in the pound which is being levied for the purposes of each service, or group of services, administered by the rating authority or by a precepting authority, in respect of which a separate fund account is kept.

8. For the purposes of the last preceding rule the following provisions shall have effect :—

(i) The expression " separate fund account " includes,—

(*a*) in relation to expenses chargeable on part only of a

rating area, the separate account or accounts of such expenses ;

(*b*) in relation to any service for which by law separate accounts are required to be kept, the separate revenue account kept therefor ; and

(*c*) in relation to the remaining services, the general revenue account of the authority.

(ii) If the rating authority think fit, and if and so far as any precepting authority concerned are willing to supply the necessary information, the rating authority in addition to showing the amount in the pound which is being levied for the purposes of any group of services included in a separate fund account, may indicate the amount in the pound which is being levied in respect of any one or more of those services.

(iii) In calculating the amount in the pound which is being levied for the purposes of any specified service there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service.

(iv) Where the amount in the pound which would otherwise have been levied for the purposes of any service (or group of services) administered by the rating authority and included in a separate fund account has been reduced by the allocation of any income not arising out of or in connection with such service (or group of services), such allocation and reduction and the source from which the income is derived shall be shown.

(v) Where the aggregate amount in the pound which would otherwise have been levied by the rating authority has been varied in order to give effect to any financial adjustment under the seventh schedule to the Act or any differential rating provisions to which effect has to be given by the rating authority, the statement shall show the extent of. and reason for, such variation.

SCHEDULE.

FORM A.

Demand Note for General Rate.

Mr.....[or occupier].

Address.....

The Council of the.....demand payment of a General Rate at.....pence in the pound made in respect of the financial [half] year ending on the.....day of.....192 , and of the arrears (if any) of former rates (*b*), now due from you as below :—

Number.	Hereditament (if other than that specified in the address).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount.
				£ s. d.
	Arrears (if any) of former rates (*b*)		.. ..	
			Total	

(*b*) Words relating to arrears may be omitted, if not required.

FORM B.

Demand Note for Special Rate.

Parish of.....
[or other area subject to the special rate].
Mr.....[or occupier].
Address.....

The Rural District Council of .....demand payment of a Special Rate made in respect of the financial [half] year ending on the.....day of..... 192 , and of the arrears (if any) of former rates (*c*), now due from you as below.

The Rate is made at..... pence in the pound upon the rateable value of hereditaments as shown below except that it is made upon one quarter only of that rateable value in the case of tithe, tithe rentcharge, woodlands, land covered with water, or used as a canal or as a towing path for a canal, or as a railway constructed under the powers of any Act of Parliament for public conveyance.

Number.	Hereditaments (if other than that specified in the address).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount.
				£ s. d.
		Arrears (if any) of former rates (*c*)	.. ..	
			Total	

THE RATE ACCOUNTS (RURAL DISTRICT COUNCILS) ORDER, 1926

The Rate Accounts (Rural District Councils) Order, 1926, *dated September* 15, 1926, *made by the Minister of Health.*

(St. R. & O. 1926, No. 1123.)

To the Councils of the several rural districts in England and Wales,—

Whereas by reason of the provisions of the Rating and Valuation Act, 1925, it is desirable to prescribe the methods in which the accounts of the receipts and expenditure under that Act of rating authorities and their officers shall be kept and presented for audit :

Now, therefore, the Minister of Health, by virtue of the powers conferred upon him by section 5 of the District Auditors Act, 1879 (42 & 43 Vict. c. 6), and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as the Rate Accounts (Rural District Councils) Order, 1926, and shall come into operation on the first day of April, 1927.

(*c*) Words relating to arrears may be omitted, if not required.

2.—(1) This Order shall apply, subject to any amendment thereof or any departure therefrom to which the Minister may from time to time assent, to every rural district council and to the officers of every such council in relation to the accounts of their receipts and expenditure under the Rating and Valuation Act, 1925.

(2) In this Order, unless the context otherwise requires,— . . .

" rating officer " means an officer to whom the duty of collecting rates in a rural district or any defined part thereof is assigned by the council ;

" collection district " means the area in which the duty of collecting rates is so assigned to a rating officer ;

" rate " includes both a general and a special rate.

Accounts of the Council.

3.—(1) The clerk, or other officer to whom the duty has been assigned by the council, shall keep such ledger accounts, books of account and records as are required by this Article or are needed for the purpose of presenting a full and correct account of transactions under the Act.

(2) The accounts, books and records required to be kept by this Article are : . . .

(iii) A Rate Charge Book according to the Form B in the Schedule hereto ;

Provided that the council may, if they think fit, in lieu of keeping a separate Rate Charge Book in the said Form B, record on the valuation list, in additional columns added thereto for the purpose, particulars of all rates made during the currency of the list, and in respect of each such rate the particulars so recorded shall be deemed to constitute the Rate Charge Book :

Provided also that, during the period before the first new valuation list made under the Act comes into operation in the district, the provisions of Article 4 (1) (i) (*a*) in regard to the keeping of a Rate Book shall apply in lieu of the foregoing provisions in regard to the keeping of a Rate Charge Book : . . .

Accounts of Rating Officers.

4.—(1) Each rating officer shall, in respect of his collection district,—

(i) keep and punctually enter up and balance—

(*a*) during the period before the first new valuation list made under the Act comes into operation in the district, Rate Books (General and Special) according to the forms at present in use in the parish or parishes concerned, and

(*b*) thereafter, a Rate Account Book according to the Form F in the Schedule hereto ; . . .

(iii) subject as herein provided, keep and punctually enter up Receipt Books containing consecutively numbered copies of the receipts given by him according to the Form H in the Schedule hereto ;

Provided that during the period before the first new valuation list made under the Act comes into operation in the district the rating officer may continue to use receipt check books according to the form in use at the date of this Order in the parish or parishes concerned :

Provided also that thereafter any rating officer who was

employed in the collection of poor rates before the first day of April, 1927, may, if the council approve and if the number of assessments in his collection district does not exceed 500, continue to use receipt check books according to the form prescribed by the General Order for Accounts (Unions), 1867, in the manner prescribed by that Order :

* * * * * *

6.—(i) The following books shall together constitute the Rate Book of the rural district, that is to say :—

(*a*) in respect of any period before the first new valuation list made under the Act comes into operation in the district, the Rate Books for the several collection districts kept in accordance with Article 4 (1) (i) (*a*) hereof ; and

(*b*) in respect of any subsequent period the Rate Charge Book for the district and the Rate Account Books for the several collection districts kept in accordance with Articles 3 (2) (iii) and 4 (1) (i) (*b*) hereof, respectively.

(ii) Rate Books and Rate Account Books for a collection district kept by a rating officer in accordance with Article 4 (1) (i) hereof shall be deemed to be accounts of the council, and the officer shall, as and when the council may direct, deposit any such book at the offices of the council.

* * * * * *

SCHEDULE [see p. 418].

* * * * * *

FORM B.: RATE CHARGE BOOK—GENERAL [AND SPECIAL] RATES MADE 19..... TO 19.....*

Assessment Number.	Occupier.	Dates (in cases of change of occupancy).		Owner, where the owner pays the rates.	Description of Property.	Name or Situation of Property.	Rate made ... day of.....		Rate made ... day of.....		Rate made ... day of.....		Rate made ... day of.....		.....
		From	To				Rateable Value.	General Rate at .....in the £.†	Rateable Value.	General Rate at .....in the £.†	Rateable Value.	General Rate at .....in the £.†	Rateable Value.	General Rate at .....in the £.†	
							£	£ s. d.	£	£ s. d.	£	£ s. d.	£	£ s. d.	
1															
2															

Notes in regard to use of form.

* *I.e.*, during the five years covered by the currency of the valuation list.

† For parts of the rating area where Special Rates are made columns headed "Special Rate at .... in the £" should also be provided to such extent as may be necessary.

N.B.—The amount in the £ of the Special Rate on the pages relating to railway lines, etc., will be at one-quarter of the amount in the £ appearing on the other pages of the Book.

FORM F.: RATE ACCOUNT BOOK.

.....District. Half-year.....

Assessment Number.	Ratepayer's Name.	Property and Address (in short).	General Rate at ..... in £ (and Special Rate at..... in £)	Arrears brought forward	Total for each Owner or Occupier.	Owners' Allowances.	Empty Allowances.	Otherwise Irrecoverable.	Amounts Paid.	Date of Payment.	Arrears carried forward.	Collector's Notes, including dates of change of occupation.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		£ s. d.	

Notes in regard to use of form.

Where Section 8 of the Rating and Valuation Act, 1925, has been adopted a further column headed "Discount" will be needed on the Credit side.
Where the rate is made payable by instalments, extra columns for amounts paid and date of payment should be added.

FORM H.: RECEIPT BOOK.

RECEIPT.

(Consec. No.)

.....Council

Received this.....19

from .....

the sum of £..... in respect of the items entered hereon.

.....Collecting Officer.

By Cash.

By Cheque.

Assessment Number.	Current Rate.
	£ s. d.
Arrears (if any)	
Costs (if any)	
Total ..	

Notes in regard to use of form.

If a discount for prompt payment is allowed under section 8 of the Act, the form should provide for showing the total rate charge of the current period and the discount deducted therefrom.

If the receipt of water charges or other income is dealt with on the rate receipt form a separate column or columns should be provided for entering the items of such receipts.

A separate "total" column should be added where sanction has been obtained to total the receipts in the Receipt Book for entry in the officer's Cash Account.

STATEMENTS TO BE ATTACHED TO DEMANDS ADDRESSED TO OWNERS.

FORM J.: *For Owners Rated under Section* 11 (1) *or agreeing under Section* 11 (2) (*b*).

(Consec. No.)

Assessment Numbers.	Hereditaments.	Rateable Values.	Full Rates.	Deductions claimed for Empty Periods.		
				Period.		Amount.
				From	To	
		£	£ s. d.			£ s. d.
			£			
Deductions in respect of Empties			£			

An allowance of .....% is claimable if.....of the above is paid before ..... and the remainder before.....

FORM K.: *For owners agreeing under Section* 11 (2) (*a*).

(Consec. No.)

Assessment Numbers.	Hereditaments.	Rateable Values.	Full Rates.
		£	£ s. d.

Total .....£
Less .....%£
£

An allowance at..... % is claimable if ..... of the above is paid before .....and the remainder before.....

FORM L.: *For owners agreeing under Section* 11 (2) (*c*).

(Consec. No.)

Assessment Numbers.	Hereditaments.	Rateable Values.	Full Rates.
			£ s. d.
		Total ..	

The owner's rent accounts show that the amounts collectable and collected during the (half) year in respect of rent and rates taken together were respectively £..... and £.....

The amount due to the council is that proportion of the above total which the aggregate amount actually collected in respect of rent and rates bears to the aggregate amount due in respect thereof, less per cent.

Note in regard to use of forms K and L.

On Forms K and L it is not necessary to enter in the final column detail in respect of amounts brought together in the columns of the Rate Account Book headed " Total for each owner."

THE RATE ACCOUNTS (BOROUGH AND URBAN DISTRICT COUNCILS) ORDER, 1926.

The Rate Accounts (Borough and Urban District Councils) Order, 1926, *dated September* 30, 1926, *made by the Minister of Health.*

(St. R. & O. 1926, No. 1178.)

To the Councils of the several municipal boroughs and urban districts in England and Wales :

[*Preamble as in Rural District Councils Order.*]

1. This Order may be cited as the Rate Accounts (Borough and

Urban District Councils) Order, 1926, and shall come into operation on the first day of April, 1927.

2.—(1) This Order shall apply, subject to any amendment thereof or any departure therefrom to which the Minister may from time to time assent, to the council of every borough and urban district and to the officers of every such council in relation to the accounts of their receipts and expenditure under the Rating and Valuation Act, 1925.

(2) In this Order, unless the context otherwise requires,—

" council " means council of a borough or urban district ;

" the Act " means the Rating and Valuation Act, 1925 ;

" the Minister " means the Minister of Health ;

" year " means a period of twelve months commencing upon the first day of April ;

" chief financial officer " means the chief officer charged with keeping the accounts of the council ;

" rate " means—

(*a*) until a general rate is levied, a poor rate (or a consolidated rate which includes a poor rate), and

(*b*) thereafter, a general rate.

Accounts of the Council.

3.—(1) The chief financial officer of the council shall keep such ledger accounts, books of account and records as are required by this Article or are needed for the purpose of presenting a full and correct account of transactions under the Act.

(2) The accounts, books and records required to be kept by this Article are— . . .

(iii) A Rate Charge Book according to the Form B, or a Rate Book according to the Form C, in the Schedule hereto ;

Provided that the council may, if they think fit, in lieu of keeping a separate Rate Charge Book in the said Form B record on the valuation list, in additional columns added thereto for the purpose, particulars of all rates made during the currency of the list, and in respect of each such rate the particulars so recorded shall be deemed to constitute the Rate Charge Book. . . .

Accounts of Officers.

4. Any officer who is responsible for rate collection in any collection district of the rating area shall—

(i) in every case where a Rate Charge Book according to Form B is adopted by the council, keep and punctually enter up a Rate Account Book according to the Form F in the Schedule hereto and balance such account promptly after the close of the rate period ; . . .

5.—(i) Every officer who collects rate monies on behalf of the council shall— . . .

(ii) keep and punctually enter up receipt-books . . . according to the Form H. . . .

Transitional Provisions.

6. In respect of any period before the first new valuation list made under the Act comes into operation in the area, the council, notwithstanding anything hereinbefore contained—

(*a*) shall, instead of bringing into use Form B or Form C in the Schedule hereto, continue to use Rate Books according to the

form at present in use in the parish or parishes concerned; and

(*b*) may, instead of bringing into use for any purpose any other form in the Schedule hereto, continue to use any form at present in use for a similar purpose.

* * * * * *

General.

8. Where a Rate Charge Book according to Form B is kept, that book, together with the Rate Account Books according to Form F kept for the several collection districts, shall together constitute the rate Book of the borough or urban district; and the Rate Account Books of the collection districts shall be deemed to be accounts of the council and shall, as and when the council may direct, be deposited at the offices of the council.

* * * * * *

SCHEDULE.

* * * * * *

FORM B. (*as scheduled to Rural District Council Orders, except for the words in the heading, and the footnote, referring to special rates*).

FORM C. [see p. 424].

FORM C: RATE BOOK.

Assessment Number.	Occupier.	Dates (in cases of change of occupancy). From	Dates (in cases of change of occupancy). To	Owner, where the owner pays the rates.	Description of property.	Name or situation of property.	Rateable Value.	Rate at ..... in the £.	Arrears of previous rates.	Total for each Occupier or Owner.	Owners' Allowances.	Empty Allowances. *	Otherwise irrecoverable. *	Reason why irrecoverable.*	Amounts Paid.	Date of payment or no. of receipt.	Arrears carried forward.
							£	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		£ s. d.		£ s. d.
1																	
2																	

Notes in regard to use of form.

* One column suffices where a separate book giving details of irrecoverable rates is kept.
Where Section 8 of the Rating and Valuation Act, 1925, has been adopted a further column headed "Discount" will be needed on the Credit side.
Where the rate is made payable by instalments, extra columns for amounts paid and date of payment should be added.

FORMS F.–L. inclusive (*as scheduled to Rural Districts Councils Order*).

THE OVERSEERS ORDER, 1927.

(St. R. & O. 1927, No. 55.)

At the Court at Buckingham Palace, the 7th day of February, 1927.

PRESENT,

The King's Most Excellent Majesty in Council.

* * * * * *

Preliminary.

1.—(1) This Order may be cited as the Overseers Order, 1927, and save as otherwise expressly provided shall come into operation on the first day of April, 1927. . . .

2.—(1) The Interpretation Act, 1889 (52 & 53 Vict. c. 63), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires—

" Parish " has the same meaning as in sub-section (4) of section 68 of the Rating and Valuation Act, 1925 ; . . .

" Rating Authority " means the council of any county borough, urban district or rural district ;

" Rural parish " means a parish in a rural district ;

" Urban parish " means a parish in a county borough or urban district. . . .

(3) Where rural parishes are grouped under a common parish council, any reference in this Order to the parish council shall include a reference to the grouped parish council, but where the powers or duties in connection with which the expression is used are excluded by the grouping order from the powers or duties exercisable by the parish council, any reference in this Order to the parish council shall be read as a reference to the parish meeting of each of the grouped parishes.

* * * * * *

Other Powers and Duties of Overseers.

5.—(1) The powers and duties of overseers, or of the churchwardens and overseers, under the enactments mentioned in the schedule to this Order are hereby transferred to the local authorities or persons mentioned in the third, fourth and fifth columns of that schedule, and those enactments shall have effect accordingly.

(2) The powers and duties of overseers under any rules in relation to elections made under section 48 of the Local Government Act, 1894, are hereby transferred to the clerk to the rating authority.

(3) Any powers or duties of overseers, or of the churchwardens and overseers, not transferred by the Act of 1925 and to which the foregoing provisions of this Order do not extend are hereby transferred to the rating authority.

* * * * * *

Service and Signature of Documents.

14. Save as otherwise provided by this Order, where any enactment or order provides for the service upon or transmission to the overseers, or the churchwardens and overseers, of a parish of any document, the enactment or order shall have effect in its application to—

(1) an urban parish, as if it provided for the service of the document on or its transmission to the clerk to the rating authority ;
(2) a rural parish under a parish council, as if it provided for the service of the document on or its transmission to the chairman of the parish council ; or
(3) a rural parish not under a parish council, as of it provided for the service of the document on or its transmission to the chairman of the parish meeting.

15.—(1) Any document required to be signed by the overseers, or by the churchwardens and overseers, of a parish and relating to powers or duties transferred by this Order to a local authority may, save as otherwise in this Order provided, be signed by the clerk to the local authority.

(2) Any document required to be signed by the overseers, or by the churchwardens and overseers, of a parish and relating to powers or duties transferred by this Order to a chairman, officer or other person, may be signed by that person.

* * * * * *

Exceptional Areas.

18.—(1) In relation to the Parish of Folkestone next Sandgate, the Urban District Council of Sandgate shall be deemed for the purposes of this Order to be the rating authority.

(2) If any difficulty arises in connection with the application of this Order to any exceptional area, as defined in section 67 of the Act of 1925, or otherwise in bringing into operation in an exceptional area any of the provisions of this Order, the Minister may, by order, remove the difficulty or do anything which appears to him necessary or expedient for bringing the said provisions into operation.

(3) An order of the Minister under this article may modify the provisions of this Order in so far as may appear to the Minister necessary or expedient for carrying his order into effect, and may provide for any necessary adjustment of property and liabilities.

Savings.

19. This Order shall have effect subject to the provisions of the Act of 1925.

20. The abolition of the office of overseer shall not, nor shall anything contained in this Order,—

(1) affect any order which may have been made under Section 33 of the Local Government Act, 1894, conferring on the council of a borough or urban district any powers, duties or liabilities of overseers or of a parish council ; or
(2) affect the transfer by the Local Government Act, 1894, to parish councils of any powers, duties and liabilities of overseers, or affect any powers as to charities conferred on parish councils by that Act.

* * * * * *

22. This Order shall have effect subject to the provisions of any future Order made under Section 62 of the Act of 1925.

The Schedule.

* * * * * *

THE RATING AND VALUATION ACT (INSPECTION OF DOCUMENTS) RULES, 1927.

The Rating and Valuation Act, 1925 (*Inspection of Documents*) *Rules*, 1927, *dated February* 15, 1927, *made by the Minister of Health under section* 58 (1) *of the Rating and Valuation Act*, 1925, *for prescribing the fees to be demanded under section* 60 (1) *of that Act in respect of the inspection of documents more than ten years old.*

(St. R. & O. 1927, No. 76.)

* * * * * *

1. The fee hereinunder mentioned may be demanded from any ratepayer who, under subsection (1) of Section 60 of the Rating and Valuation Act, 1925, claims to inspect or take copies of, or extracts from, any document referred to in the said subsection which is more than ten years old, that is to say, a fee of two shillings and sixpence in respect of each such document which he requires to be produced.

2. Nothing in these rules shall be construed as precluding the authority or person having the custody of any document referred to in the said subsection from supplying copies thereof or extracts therefrom at the request of any ratepayer upon such terms as to payment as may be agreed.

3. These rules may be cited as the Rating and Valuation Act, 1925 (Inspection of Documents) Rules, 1927, and shall come into operation on the date hereof.

THE RATING AND VALUATION ACT (REPEALS, ETC.) ORDER, 1927.

The Rating and Valuation Act (*Repeals, etc.*) *Order*, 1927, *dated February* 19, 1927, *made by the Minister of Health under section* 69 (4) *of the Rating and Valuation Act*, 1925, *for fixing the dates upon which the said section* 69 *shall come into operation for different purposes and in relation to different areas.*

(St. R. & O. 1927, No. 90.)

* * * * * *

1. This Order may be cited as the Rating and Valuation Act (Repeals, etc.) Order, 1927, and shall come into operation on the date hereof.

2. In this order,—

" the Act of 1925 " means the Rating and Valuation Act, 1925 ;

" the appointed day " means the first day of April, 1927 ;

" the date of the first new valuation " means, in relation to any rating area or part of a rating area, the date on which the first new valuation list made under Part II of the Act of 1925 for that area or part comes into operation ; and

" the date of the first general rate " means in relation to a rural rating area the appointed day, and in relation to an urban rating area the date of the first new valuation.

3. Subsection (2) of Section 69 of the Act of 1925 shall come into operation on the dates hereinafter mentioned, that is to say :—

The paragraph which relates to references to gross value, gross estimated rental, net annual value and rateable value, on the date of the first new valuation so far as regards values or rentals referred to as determined by valuation lists made under the Union Assessment Acts, 1862 to 1880, . . .

* * * * * *

The [last two paragraphs] of the subsection, on the appointed day.

4. Subsection (3) of section 69 of the Act of 1925 shall come into operation on the appointed day.

5. Subsection (1) of section 69 of the Act of 1925 shall come into operation on the dates hereinafter mentioned, that is to say :—

So far as it repeals the enactments specified in Part I of the schedule to this order, on the appointed day ;

So far as it repeals the enactments specified in Part II of the schedule to this order, on the date of the first general rate ;

So far as it repeals the enactments specified in Part III of the schedule to this order, and so far as it repeals so much of any Act (whether public or local and personal) not mentioned in the eighth schedule to the Act of 1925 as authorises any valuation of a hereditament to be made for the purposes of any rate in respect of which the valuation list is by the Act of 1925 made conclusive, or any assessment of any such rate to be made except on the basis of that valuation list, on the date of the first new valuation ; and

So far as it repeals the enactments specified in Part IV of the schedule to this order, on the first day of April, 1929.

6. This Order does not apply to . . ., the Administrative County of London . . .

SCHEDULE.

PART I

ENACTMENTS REPEALED AS FROM THE APPOINTED DAY.

Session and Chapter.	Short Title.	Extent of Repeal.
43 Eliz. c. 2 –	The Poor Relief Act, 1601.	Section one so far as it relates to the appointment of overseers ; in section eight the words " the " noyacion of overseers " ; section nine.
* *	* *	* * *
17 Geo. 2, c. 3 –	The Poor Rate Act, 1743.	The whole Act.
17 Geo. 2, c. 38 –	The Poor Relief Act, 1743.	Section three.
* *	* *	* * *
3 & 4 Will. 4, c. 90	The Lighting and Watching Act, 1833.	In section thirty-three the words from " Provided always " to the words " pay for the pur- " poses of this Act " ; and section thirty-four.

Session and Chapter.	Short Title.	Extent of Repeal.
6 & 7 Will. 4, c. 96	The Parochial Assessments Act, 1836.	In section one the words "be "allowed by any justices or"; in section two the words from "and the churchwardens" to the words "force or validity"; sections three, four and five; in the Schedule, the heading and the declaration to the form of rate.
* *	* *	* * *
25 & 26 Vict. c. 103	The Union Assessment Committee Act, 1862.	Sections two to thirteen and sixteen; in section seventeen the words "or delivered to them, "as hereinbefore provided," the words "and a copy of such "valuation list shall be forth-"with delivered to the Board of "Guardians" and the words "allowed by the Justices"; in section eighteen the words from "any overseer" to "within such Union or"; in section nineteen the words "allowed by Justices"; in section twenty the words "with the consent of the "Guardians as aforesaid"; in section twenty-one the words "or delivered to" and the words "or delivered"; in section twenty-three the words from "and shall be preserved" to the end of the section; in section twenty-six the words "or the Committee may with "such consent as aforesaid ap-"point a person for such pur-"poses"; in section twenty-eight the words from "and "instead" to the words "here-"unto annexed"; sections thirty to thirty-six, and thirty-eight to forty-five; in the schedule the form of declaration
27 & 28 Vict. c. 39	The Union Assessment Committee Amendment Act, 1864.	In section two the words from "with the consent" to the words "every guardian" and the words "but in the name of "the guardians of such union"; sections three, four, seven, eight, ten and eleven.
* *	* *	* * *
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Sections twenty-eight and twenty-nine; in section thirty the words from "for the use of "the Guardians" to the words "Committee Act, 1862"; sections thirty-one, thirty-two, thirty-nine and forty

Session and Chapter.	Short Title.	Extent of Repeal.
32 & 33 Vict. c. 41	The Poor Rate Assessment and Collection Act, 1869.	Sections fourteen and seventeen, and in section eighteen the words "with the allowance of "the rate by the justices."
38 & 39 Vict. c. 55	The Public Health Act, 1875.	In section two hundred and ten, the words from "any such "rate" to the words "shall be "excluded"; sections two hundred and nineteen, two hundred and twenty and two hundred and twenty-two except so far as those sections relate to private improvement rates; sections two hundred and thirty and two hundred and thirty-one, and section two hundred and forty-eight
* *	* *	* * *
43 & 44 Vict. c. 7 –	The Union Assessment Act, 1880.	The whole Act.
45 & 46 Vict. c. 20	The Poor Rate Assessment and Collection Act 1869, Amendment Act, 1882.	Section four
45 & 46 Vict. c. 50	The Municipal Corporations Act, 1882.	Section one hundred and forty-four except subsections (1) and (2); in subsection (2) of section one hundred and ninety-eight the words "allowed by "two justices usually acting in "and for the borough and has "been," and section two hundred and thirty-eight.
52 & 53 Vict. c. 63	The Interpretation Act, 1889.	Section five.
55 & 56 Vict. c. 53	The Public Libraries Act, 1892.	In subsection (1) of section eighteen the words from "and "(*c*) where" to the end of the subsection.
56 & 57 Vict. c. 73	The Local Government Act, 1894.	. . .; in paragraph (i) of subsection (1) (*c*) of section 6 the words "appeals or objections by them "in respect of the valuation list "or" and the words "poor rate "or"; . . . in subsection (1) of tion thirty-three the words from "all or any of" to the words "liabilities of overseers "and" . . .

PART II.

ENACTMENTS REPEALED AS FROM THE DATE OF THE FIRST GENERAL RATE.

Session and Chapter.	Short Title.	Extent of Repeal.
54 Geo. 3, c. 170	The Poor Relief Act, 1814	Section eleven.
* *	* *	* * *
53 & 54 Vict. c. 17	The Public Health (Rating of Orchards) Act, 1890.	The whole Act.
54 & 55 Vict. c. 33	The Allotments Rating Exemption Act, 1891.	The whole Act.

PART III.

ENACTMENTS REPEALED AS FROM THE DATE OF THE FIRST NEW VALUATION.

Session and Chapter.	Short Title.	Extent of Repeal.
6 & 7 Will. 4, c. 96	The Parochial Assessments Act, 1836.	The whole Act, so far as not previously repealed.
10 & 11 Vict. c. 34	The Towns Improvement Clauses Act, 1847.	Sections one hundred and seventy-six and one hundred and seventy-seven.
13 & 14 Vict. c. 101	The Poor Law Amendment Act, 1850.	Section seven.
25 & 26 Vict. c. 103	The Union Assessment Committee Act, 1862.	The whole Act, so far as not previously repealed.
27 & 28 Vict. c. 39	The Union Assessment Committee Amendment Act, 1864.	The whole Act, so far as not previously repealed, except sections six, nine and thirteen.
30 & 31 Vict. c. 102	The Representation of the People Act, 1867.	Section seven.
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Sections thirty and thirty-eight.
32 & 33 Vict. c. 41	The Poor Rate Assessment and Collection Act, 1869.	Sections three to six, nine, eleven, thirteen, sixteen and twenty.
37 & 38 Vict. c. 54	The Rating Act, 1874.	Section twelve; and in section fifteen the definitions of "valuation list" and "assessment committee."
38 & 39 Vict. c. 55	The Public Health Act, 1875.	In section two hundred and ten, the words from "public notice" to the end of the section; section two hundred and eleven, except sub-paragraph (c) of paragraph (1) and paragraph (4) thereof; section two hundred and twelve; in section two hundred and eighteen

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict. c. 55 —*cont.*	The Public Health Act, 1875—*cont.*	the words " general district rate " or " ; sections two hundred and twenty-one, two hundred and twenty-three and two hundred and twenty-five, except so far as those sections relate to private improvement rates.
45 & 46 Vict. c. 20	The Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.	The whole Act, so far as not previously repealed.
45 & 46 Vict. c. 50	The Municipal Corporations Act, 1882.	Section one hundred and forty-five ; sub-section (1) of section one hundred and forty-six from " on receipt of " to the words " in the borough " where those words secondly occur ; subsections (3), (4), (5), and (6) of section one hundred and forty-six ; sections one hundred and forty-seven and one hundred and forty-eight ; subsection (5) of section one hundred and ninety-seven ; and section one hundred and ninety-nine.
59 & 60 Vict. c. 16	The Agricultural Rates Act, 1896.	. . . ; in section nine the definition of " rateable value " so far as it relates to any rate not being a county rate.
10 & 11 Geo. 5, c. 17.	The Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.	Subsection (1) of section sixteen.
13 & 14 Geo. 5, c. 39.	The Agricultural Rates Act, 1923.	In the substituted definition of rateable value in Part II of the Schedule the words from " and in the case of " to the end of the definition.

PART IV.

ENACTMENTS REPEALED AS FROM THE FIRST DAY OF APRIL, 1929.

Session and Chapter.	Short Title.	Extent of Repeal.
* *	* *	* * *
27 & 28 Vict. c. 39	The Union Assessment Committee Amendment Act, 1864.	Section nine.
* *	* *	* * *
55 & 56 Vict. c. 73	The Local Government Act, 1894.	In paragraph (i) of subsection (1) (c) of section six the words " appeals in respect of the.... "
* *	* *	* * *

THE RATING AND VALUATION ACT (ASSESSMENT APPEALS) RULES, 1927.

The Rating and Valuation Act (Assessment Appeals) Rules, 1927, *dated April* 29, 1927, *made by the Secretary of State under section* 34 *of the Rating and Valuation Act*, 1925, *with respect to the practice and procedure to be followed on and in connection with appeals under Part II of the said Act.* (St. R. & O. 1927, No. 416.)

* * * * * *

1. These Rules may be cited as the Rating and Valuation Act (Assessment Appeals) Rules, 1927, and shall apply to every appeal to a Court of Quarter Sessions under the provisions of Part II of the Rating and Valuation Act, 1925.

2.—(1) In these Rules, unless the context otherwise requires, " the " Act " means the Rating and Valuation Act, 1925 ;

" Court " in the case of a Court of Quarter Sessions for a County means the Committee of the Justices of the County constituted in accordance with the provisions of section 32 of the Act ;

" Clerk " means Clerk of the Peace ;

" party " does not include a person served with a copy of a notice of appeal who has not given notice in accordance with these Rules of his intention to appear as a respondent to the appeal ;

" net annual value " means the net annual value of the hereditament to which an appeal relates as appearing in the valuation list, or, in any case where the net annual value of that hereditament does not appear in the valuation list, the rateable value as so appearing.

(2) The Interpretation Act, 1889 (52 & 53 Vict. c. 63) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3.—(1) Every person upon whom a copy of a notice of appeal is served in accordance with the provisions of the Fifth Schedule to the Act shall, if he intends to appear as respondent to the appeal, give notice in writing of his intention so to appear, stating whether he intends to appear separately or jointly with some other person and specifying an address at which documents directed to him may be served.

(2) Such notice shall be given to the Clerk and to the appellant before the expiration of fourteen days from the date of the service of the copy of the notice of appeal, or within such extended time as may under these Rules be allowed, and a person omitting to give such notice shall not be heard in opposition to the appeal except upon such terms as the Court may think fit to impose.

(3) A County Valuation Committee, if they intend to appear as a respondent to an appeal, shall give the like notice of their intention so to appear, provided that in the case of such a Committee, the period of fourteen days above mentioned shall be calculated from the date on which a copy of the notice of appeal is served upon the Assessment Committee.

4. For the purpose of enabling parties to an appeal to make applications with respect to the place and date of hearing, the Clerk shall at the request of any party give to him in writing information as to the

place at which, and the date on which, such appeal will, subject to any application for a different place or date to be fixed, be in the list of cases for hearing, and also such reasonable information as to the number and nature of the cases awaiting hearing and arrangements for future sittings of the Court as he may be able to give.

5.—(1) An application to which this Rule relates shall be made to the Clerk in accordance with the provisions of this Rule, and, subject to any general directions given to him by the Court, the Clerk shall deal with the application in such manner as he thinks proper, regard being had to the convenience of the parties and the desirability of limiting so far as practicable the costs of appeals, and shall communicate his decision in writing to each party to the appeal.

(2) The application shall be made in writing and shall state briefly the grounds upon which it is made and the names and addresses of all parties to the appeal.

(3) If the application is made with the consent of all parties, it shall be accompanied by consents signed by the parties or their solicitors.

(4) If the application is not made with the consent of all parties, then, before it is made, a copy thereof shall be served upon each party, and the application shall state that this requirement has been complied with.

(5) Except where the application is made with the consent of all parties the Clerk shall not decide it until the expiration of six days from the receipt thereof, and before deciding it he shall consider any written objections which may have been received by him before the expiration of that period from any other party to the appeal, and, if so required by any party, shall give to all parties an opportunity of appearing before him.

(6) Where an application is made under this Rule, the Clerk (whether he grants or refuses such application) shall without any request in that behalf extend the time limited by these Rules for doing any act if he considers that it is reasonable to do so having regard to the delay involved in making and determining the application.

(7) The decision of the Clerk upon an application to which this Rule relates shall not be subject to appeal :

Provided that nothing herein contained shall be construed as limiting the power of the Court upon the hearing of the appeal to grant a postponement or extension of time upon such conditions as to costs or otherwise as they may think fit.

(8) The applications to which this Rule relates are applications for—

(*a*) postponing the hearing of an appeal ;
(*b*) fixing a date for the hearing of an appeal ;
(*c*) fixing or altering the place of hearing ; and
(*d*) extending the time limited by these Rules for giving notice of intention to appear as respondent or for lodging a statement of the party's case, when required by these Rules.

6. An application to the Court under these Rules shall be made in the form of a notice of motion which shall be served upon the Clerk and upon each party to the appeal seven clear days at least before the date on which the motion is to be made.

7. Where the terms of any Order or judgment for which application is made to the Court have been agreed upon by all parties, particulars

of such terms, signed by the parties or their solicitors shall be sent to the Clerk, and at any subsequent sitting of the Court an Order or judgment may be made or entered in accordance with such terms in the absence of the parties unless the Court for any special reason require their attendance.

8. Where the net annual value of the hereditament to which an appeal relates exceeds £200, the following provisions shall have effect—

(*a*) Before the expiration of fourteen days from the date on which the appellant first receives notice of any person's intention to appear as respondent to the appeal, he shall state in writing his case and the facts to be proved and the points of law (if any) to be argued in support of the case, and shall serve two copies of such statement on the Clerk and one copy on each person who has given notice of intention to appear as respondent.

(*b*) Before the expiration of fourteen days from the date of the service upon him of the appellant's case, each respondent shall state in writing his case and the facts to be proved and the points of law (if any) to be argued in support of the case (including any objection to the sufficiency of the notice of appeal or the service thereof) and shall serve two copies of such statement on the Clerk and one copy on the appellant.

(*c*) Where the appeal is brought to a Court of Quarter Sessions for a County, each party shall before the day fixed for the hearing supply six additional copies of his statement of case for the use of the Court.

(*d*) If in the opinion of the Court the case presented by any party upon the hearing of the appeal has not been indicated with reasonable particularity in his statement of case, the Court shall make such order in the matter with regard to adjournment, costs or otherwise as may appear to them to be just and equitable.

9. Upon the hearing of an appeal the appellant shall begin; and, if two or more respondents appear separately, they shall be heard in such order as the Court may determine.

10. Costs ordered by the Court, or directed by an arbitrator, to be paid by any party to an appeal shall be taxed by the Clerk on such date as he may determine.

11. Upon a taxation of costs the amounts to be allowed as between party and party to Counsel, Solicitors, Expert Witnesses, Valuers and Arbitrators in respect of the matters mentioned in Part I of the Schedule hereto shall not exceed the amounts therein specified, unless the Court at the hearing otherwise order or the Clerk for special reasons considers such amounts to be inadequate.

12.—(1) Any party dissatisfied with a taxation of costs by the Clerk may, within five days, serve on the other party interested therein and on the Clerk objections in writing specifying the items objected to and the grounds of his objections and asking for the taxation to be reviewed in respect of such items.

(2) Upon such application the Clerk shall reconsider and review his taxation upon such objections (receiving, if he thinks fit, further evidence

in respect thereof) ; and, if so required within five days by either party, he shall state in writing the reasons for his decision thereon and any special facts or circumstances in relation thereto.

(3) Any party dissatisfied with the decision of the Clerk as to any item which may have been objected to as aforesaid may within ten days apply to the Court to review the taxation and the Court may thereupon make such Order as they think just, including the payment of the costs of the review of taxation ; but the taxation of the Clerk shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid.

(4) The Clerk may in any particular case extend any period of time limited by this Rule.

13. The fees specified in Part II of the Schedule hereto shall be payable in respect of the matters mentioned therein to the Clerk.

14.—(1) In any case where the Clerk is also an officer of any authority or committee which is a party to an appeal, the Chairman of the Court or the Recorder, as the case may be, shall appoint some independent person, being a barrister or a solicitor, to act in lieu of the Clerk upon the hearing by the Court of such appeal and in all proceedings preliminary or incidental thereto other than applications made with the consent of all parties.

(2) A person appointed in accordance with the provisions of this Rule shall be entitled to receive out of the county fund or the general rate fund of the borough, as the case may be, a fee calculated according to the scale set out in Part III of the Schedule hereto.

15. The provisions of section 59 of the Act shall apply to documents required or authorised to be served under these Rules.

SCHDEULE.

PART I.

Scale of fees to be Allowed upon Taxation as between Party and Party.

1. *Counsel.*

(1) Where the net annual value does not exceed £100, there may be allowed to Counsel the following fees :—

	Net Annual Value Not exceeding £50			Exceeding £50 but not exceeding £100.		
	£	s.	d.	£	s.	d.
Settling notice and grounds of appeal	1	3	6	1	3	6
Advising upon evidence – – – –	1	3	6	1	3	6
Brief upon any motion in Court –	2	4	6	2	4	6
Brief upon hearing in Court – –	4	6	6*	5	10	0*
Conference – – – – –	1	6	0	1	6	0

(2) Where the net annual value exceeds £100, such fees shall be allowed as are considered to be reasonable.

(3) Fees to a second counsel shall not be allowed in any case, except in

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* Where there is no local bar in the court town or within twenty miles thereof (measured in a straight line), a further fee not exceeding £1 1s. may be allowed if the fee otherwise allowable is considered to be insufficient.

pursuance of an Order of the Court made immediately after the conclusion of the hearing or, in the case of an appeal referred to arbitration, made upon motion when the award is enrolled.

2. *Solicitors.*

(1) Where the net annual value does not exceed £100, there may be allowed, to Solicitors the following fees :—

	Net Annual Value Not exceeding £50.			Exceeding £50 but not exceeding £100.		
	£	s.	d.	£	s.	d.
Attending hearing in Court with Counsel	1	1	0	1	1	0
Conducting appeal in Court without Counsel – – – – – –	2	2	0	3	3	0

While the Solicitors' Remuneration Act General Order, 1919 (*b*), continues in force, these fees may be increased by 33⅓ per centum.

(2) In respect of matters not specified above, such fees shall be allowed as are considered to be reasonable.

(3) Where the net annual value exceeds £100, such fees shall be allowed as are considered to be reasonable.

3. *Expert Witnesses and Valuers.*

(1) There may be allowed to surveyors, other similar expert witnesses, and valuers a qualifying fee as hereinder :—

	£	s.	d.
Where the net annual value does not exceed £100 – –	5	5	0
Where the net annual value exceeds £100 but does not exceed £200 – – – – – – – –	6	6	0

Where the net annual value exceeds £200, such fee as is considered to be reasonable.

In addition, an allowance of £3 3*s.* may be made for each day on which a witness is necessarily in Court for the purpose of giving evidence.

The above allowances shall include all professional fees and expenses except necessary plans and diagrams.

(2) Fees to more than two expert witnesses on behalf of any one party shall not be allowed except in pursuance of an Order of the Court made immediately after the conclusion of the hearing, or in the case of an appeal referred to arbitration, upon motion when the award is enrolled.

(3) Where a witness gives evidence as to the value of part only of the hereditament to which the appeal relates, the fee to be allowed shall be calculated upon the net annual value estimated to be attributable to that part.

(4) Where the hereditament to which the appeal relates is part of an undertaking extending into more than one parish and in order to determine the value of the hereditament it is necessary to ascertain the value of the whole undertaking, the fee to be allowed shall be calculated upon the net annual value of the whole undertaking ; but if two or more appeals relating to different parts of the undertaking are decided upon the same ascertainment of its total value, the fee shall be apportioned between such appeals, a proportion only being allowed in respect of each.

4. *Arbitrators.*

There may be allowed to arbitrators the following fee :—

	£	s.	d.
Where the net annual value does not exceed £100 – –	7	7	0
Where the net annual value exceeds £100 but does not exceed £200 – – – – – – – –	10	10	0

Where the net annual value exceeds £200, such sum as may have been agreed between the parties or in the absence of agreement, as may be awarded by the Court.

The above fees shall cover all expenses (including costs of preparing and making the award) other than stamp duty.

(*b*) S. R. & O. 1919 (No. 1878), II, p. 461.

PART II

Fees to be Paid to the Clerk.

	£	s.	d.
Entering appeal		2	6
Information in writing as to cases for hearing and sittings of Court		2	6
Application to Clerk under Rule 5 (including notification of decision)		5	0
Application to Court (including notice requiring attendance of parties or notification of order made)		5	0
*Hearing fee—			
Where net annual value does not exceed £100		10	
Where net annual value exceeds £100 but does not exceed £300	1	0	0
Where the net annual value exceeds £300	3	0	0
Certified copy of any Order of Court		1	0
Special case—			
Drawing (if not drawn by parties), for every folio of 72 words		1	0
Attending Chairman for settling case, for each hour's attendance		10	0
Copy, for any party, of case as settled, for every folio of 72 words			4
Taxation—			
For every £2 (or fraction of £2) of the Bill as taxed		1	0

* NOTE.—No hearing fee is payable, if the appeal is disposed of without a hearing in Court.

PART III.

Fees to be Paid to a Person Appointed under Rule 14 to Act in Lieu of the Clerk.

In respect of each day's attendance upon the Court at the hearing of an appeal :—

	£	s.	d.
If in attendance for less than 3 hours	5	5	0
If in attendance for 3 hours or longer	7	7	0

In respect of Special Cases and Taxations, such fees as are specified in Part II of this Schedule.

In addition to the above fees, reasonable travelling and subsistence expenses necessarily incurred in the performance of duties—whether duties in respect of which a fee is specified or not—shall be allowed.

THE PLANT AND MACHINERY (VALUATION FOR RATING) RULES, 1927.

The Plant and Machinery (Valuation for Rating) Rules, 1927, dated April 7, 1927, made by the Lord Chief Justice of England under section 24 of the Rating and Valuation Act, 1925, for fixing the Fees to be charged in respect of Proceedings before a Referee and with respect to the Procedure on and in connection with References under that section. (St. R. & O. 1927, No. 479/L.21.)

* * * * * *

1. These Rules may be cited as the Plant and Machinery (Valuation for Rating) Rules, 1927.

2.—(1) In these Rules, unless the context otherwise requires,—

"The Act" means the Rating and Valuation Act, 1925;

"Question" means a question arising on or in connection with an objection or proposal made, or appeal brought, under Part II of the Act as to whether any particular plant or machinery falls within any of the classes or descriptions specified in the confirmed statement referred to in subsection (5) of section 24 of the Act;

"Panel" means the panel of referees constituted under section 24 of the Act and consisting of persons appointed by the Lord Chief Justice of England;

"Referee" means the member of the panel appointed in accordance with these Rules to determine a question;

"Assessment Committee" means an assessment committee constituted in accordance with the provisions of the Act;

"Court" means, in the case of a County, the committee of the justices of the county appointed under section 32 of the Act, and, in the case of a Borough having a separate Court of Quarter Sessions, the Recorder; and

"Prescribed officer" means the Secretary to the Lord Chief Justice of England, whose address for the purpose of these Rules is Royal Courts of Justice, Strand, London, W.C.2.

(2) The Interpretation Act, 1889 (52 & 53 Vict. c. 63) applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3.—(1) Where an Assessment Committee or Court have decided, with the written consent of all parties to the proceedings before them, to refer a question to a member of the panel for his determination, they shall—

(i) if all parties to the proceedings are agreed as to the member of the panel to whom the question is to be referred, forward to that member an appointment appointing him to act as referee in the matter; and

(ii) if all parties are not so agreed, forward to the prescribed officer an application, in duplicate, requesting the Lord Chief Justice to appoint a member of the panel to act as referee in the matter.

(2) Appointments, and applications for the appointment, of referees shall be in the forms set out in the First Schedule to these Rules, or in forms to the like effect.

4.—(1) The Lord Chief Justice on receiving a valid application for the appointment of a referee shall, as soon as may be, proceed to select from the panel and appoint a person to act as referee in the matter.

(2) The prescribed officer shall, as soon as a referee has been appointed, forward to him one copy of the application bearing his appointment at the foot thereof and notify the name and address of the referee to the Clerk to the Assessment Committee or Court from whom the application was received.

(3) Upon receipt of such notification as is mentioned in paragraph (2) of this Rule the Clerk to the Assessment Committee or Court shall notify the name and address of the referee to each party to the proceedings.

5.—(1) The Referee shall as soon as may be after his appointment proceed with the determination of the question referred to him, but in fixing the place and time of hearing and of any inspection to be made by him, shall, so far as is reasonably possible, consult the convenience of the parties to the proceedings.

(2) Every party to the proceedings shall furnish to the referee on his request any document or other information which it is in his power to furnish and which the referee may require for the purpose of considering and determining the question referred to him.

(3) The Referee may in any case, and shall if so required by any party to the reference, before making his award, inspect the plant or machinery in respect of which the question arises, and upon any such inspection each party shall be entitled to be represented by two persons or such greater number of persons as may be agreed between them.

(4) Paragraphs (*a*) and (*c*) of section 7 of the Arbitration Act, 1889 (52 & 53 Vict. c. 49), and paragraphs (*g*) and (*i*) of the First Schedule to that Act shall apply to any reference under these Rules as if the Referee were an umpire, and the Award of the Referee so far as it contains any direction as to the taxation and payment of costs may be enforced in manner provided by section 12 of that Act.

(5) The award of the referee shall set out in a Schedule or Schedules a brief description of each piece of plant or machinery specified in the appointment or application for appointment of the Referee which he finds to fall, or not to fall, within any of the classes or descriptions specified in the confirmed statement.

(6) Subject to the provisions of the Act and of these Rules the proceedings before a Referee shall be such as he in his discretion may think fit.

6. The fees specified in the Second Schedule to these Rules shall be payable to the Referee and shall be deemed to be costs of his Award.

7.—(1) If a referee refuses to act or is incapable of acting or dies, the Assessment Committee or Court by whom, or upon whose application, he was appointed may, with the consent of all parties to the proceedings, appoint another member of the panel to act as referee, and in the absence of such consent the Lord Chief Justice may, upon application being made to him, make such an appointment.

(2) The making of a substituted appointment under this Rule shall operate as a revocation of the previous appointment and reference.

FIRST SCHEDULE.

FORM OF APPOINTMENT.

Rating and Valuation Act, 1925.

To , of

In pursuance of the provisions of section 24 of the above-mentioned Act, the Assessment Committee for the Assessment Area of the County of (the Rating Appeal Committee of Quarter Sessions for the County of) (I, the Recorder of the Borough (City) of) hereby appoint you, a member

of the panel of referees constituted for the purposes of the said section, to act as referee for the determination of the question of which particulars are annexed.

Date

Signatures
Chairman and Clerk
(or Recorder).

PARTICULARS.

Names and addresses of all parties to the proceedings before the Committee or Court and of their respective solicitors (if any).....

Whether all parties have agreed in writing to the reference and as to the referee to be appointed ?.....

Question.—Whether the plant and/or machinery specified below or any and which of it falls within any of the classes or descriptions specified in the confirmed statement referred to in section 24 (5) of the Rating and Valuation Act, 1925 :—

(*Insert here (or in a Schedule attached) a brief description of the plant and/or machinery, sufficient to indicate to the referee the nature and magnitude of the question referred to him, with information as to the situation of the premises and of the nearest railway station*).

FORM OF APPLICATION FOR APPOINTMENT.

Rating and Valuation Act, 1925.

To the Lord Chief Justice of England.

In pursuance of the provisions of section 24 of the above-mentioned Act, the Assessment Committee for the Assessment Area of the county of (the Rating Appeal Committee of Quarter Sessions for the County of) (I, the Recorder of the Borough (City) of), hereby apply for a member of the panel of referees constituted for the purposes of the said section to be appointed to act as referee for the determination of the question of which particulars are annexed.

Date

Signatures
Chairman and Clerk
(or Recorder).

PARTICULARS.

Names and addresses of all parties to the proceedings before the Committee or Court and of their respective solicitors (if any).....

Whether all parties have agreed in writing to the reference ?.....

Question.—Whether the plant and/or machinery specified below or any and which of it falls within any of the classes or descriptions specified in the confirmed statement referred to in section 24 (5) of the Rating and Valuation Act, 1925 :—

(*Insert here (or in a Schedule attached) a brief description of the plant and/or machinery, sufficient to indicate to the referee the nature and magnitude of the question referred to him, with information as to the situation of the premises and of the nearest railway station.*)

Names of any of the members of the panel who have been concerned in the valuation of the plant and/or machinery, in question or have advised either the authority or the ratepayers with respect thereto.....

APPOINTMENT.

I hereby appoint of as referee to determine the above-mentioned question.

Date C.J.

SECOND SCHEDULE.

Fees payable to a Referee.

Where the hearing before the Referee of the question referred to him does not occupy more than three hours, ... 7 guineas.

Where the hearing occupies more then three hours but not more than five hours, ... 10 guineas.

Where the hearing occupies more than five hours, the last-mentioned fee together with an additional fee at the rate of 1½ guineas in respect of each hour or portion of an hour beyond the first five into which the hearing extends.

Notes.—1. The above fees cover the preparation of the Referee's award, but he is entitled to charge in addition thereto reasonable travelling and subsistence expenses and the cost of stamping his award.

2. Any time occupied by the Referee in necessary travelling to and from the hearing and in inspecting the plant and/or machinery in respect of which the question arises shall be treated as time occupied in the hearing.

THE PLANT AND MACHINERY (VALUATION FOR RATING) ORDER, 1927.

The Plant and Machinery (Valuation for Rating) Order, 1927, dated May 30, 1927, made by the Minister of Health under section 24 (5) of the Rating and Valuation Act, 1925, for confirming with modifications the Statement prepared by the Committee constituted under section 24 (3) of that Act. (St. R. & O. 1927, No. 480.)

* * * * * *

1.—(1) This Order may be cited as the Plant and Machinery (Valuation for Rating) Order, 1927, and shall come into operation on the date hereof.

* * * * * *

2. The statement as modified and set out in the Schedule to this Order is hereby confirmed.

SCHEDULE.

STATEMENT PREPARED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24 OF THE RATING AND VALUATION ACT, 1925, AS MODIFIED AND CONFIRMED BY THE MINISTER OF HEALTH.

Classes of machinery and plant deemed to be part of the hereditament.

CLASS 1 (*a*).

Machinery and plant specified in paragraphs (*a*) to (*l*) of the Schedule to this Class (together with the appliances and structures accessory thereto specified in paragraphs (1) and (2) of the Schedule of Accessories) which is used or intended to be used mainly or exclusively in connection with the generation, storage, primary transformation (as herein defined) or main transmission (as herein defined) of power in or on the hereditament.

" Primary transformation of power " means and includes any transformation of electrical power in or on the hereditament by any transforming plant which changes the pressure or frequency or form of current of the power as generated in or on or supplied to the hereditament to another pressure or frequency or form of current for distribution in the hereditament wherever

such transformation is effected at some point in the main transmission as hereinafter defined.

"Main transmission of power" means and includes all transmission of power from the generating plant or point or points of supply in or on the hereditament up to and including :—

(i) Where power is transmitted to any other hereditament, the point or points at which power passes from the hereditament ;

(ii) Where power is transmitted by means of shafting or gear wheels, any shaft or shafts or gear wheel or wheels which is or are directly driven by means of belts, ropes, gear or other means from the shaft, pulley, drum, driving wheel, or gear of the prime mover ;

(iii) Where electrical power is transmitted by means of a cable or cables, the main distribution board or boards to which the cable or cables from the generator or generators or point or points of supply is or are led either directly or with the intervention of a transformer or transformers, and whose bus bars carry or are intended to carry electrical energy at the pressure at which the power distribution circuits are supplied ;

(iv) Where hydraulic or pneumatic power is transmitted by means of a pipe or pipes, the point or points where the main supply ceases excluding any branch service piping connected with such main piping.

SCHEDULE TO CLASS 1 (*a*).

(*a*) Steam boilers, including their settings, chimneys, flues and dust or grit catchers used in connection therewith : furnaces ; mechanical stokers ; injectors, jets, burners and nozzles ; superheaters ; feed water pumps and heaters ; economisers ; accumulators ; deærators ; blow-off tanks ; gas retorts and charging apparatus, producers and generators.

(*b*) Steam engines ; steam turbines ; internal combustion engines ; hot-air engines ; barring engines.

(*c*) Continuous and alternating current dynamos ; couplings to engines and turbines ; field exciter gear ; three-wire or phase balancers.

(*d*) Storage batteries, with stands and insulators, regulating switches, boosters and connections forming part thereof.

(*e*) Static transformers ; auto transformers ; motor generators ; motor converters ; rotary converters ; transverters ; rectifiers ; phase converters ; frequency changers.

(*f*) Cables and conductors ; switchboards, distribution boards, control panels and all switchgear and other apparatus thereon.

(*g*) Water wheels ; water turbines ; rams ; governor engines ; penstocks ; spillways ; surge tanks ; conduits ; flumes ; sluice gates.

(*h*) Pumping engines for hydraulic power ; hydraulic engines ; hydraulic intensifiers ; hydraulic accumulators.

(*i*) Air compressors ; compressed air engines.

(*j*) Windmills.

(*k*) Shafting, couplings, clutches, worm-gear, pulleys and wheels.

(*l*) Steam or other motors which are used or intended to be used mainly or exclusively for driving any of the machinery and plant falling within this Class.

CLASS 1 (*b*).

Machinery and plant specified in paragraphs (*a*) to (*h*) of the Schedule to this Class (together with the appliances and structures accessory thereto specified in paragraph (2) of the Schedule of Accessories) which is used or intended to be used mainly or exclusively in connection with the heating, cooling, ventilating, lighting, draining or supplying of water to the land or buildings of which the hereditament consists, or the protecting of the hereditament from fire :

Provided that, in the case of machinery or plant which is in or on the hereditament for the purpose of manufacturing operations or trade processes,

the fact that it is used in connection with those operations or processes for the purposes of heating, cooling, ventilating, lighting, supplying water or protecting from fire shall not cause it to be treated as falling within the classes of machinery and plant specified in the Schedule to this Class.

SCHEDULE TO CLASS 1 (*b*).

(a) *General.*

Any of the machinery and plant specified in the Schedule to Class 1 (*a*) and any steam or other motors which are used or intended to be used mainly or exclusively for driving any of the machinery and plant falling within paragraphs (*b*) to (*h*) of this Schedule.

(*b*) *Heating.*

(i) Water heaters.
(ii) Headers and manifolds; steam pressure reducing valves; calorifiers; radiators; heating panels; hot-air furnaces with distributing ducts and gratings.
(iii) Gas pressure regulators; gas burners; gas heaters and radiators and the flues and chimneys used in connection therewith.
(iv) Plug-sockets and other outlets; electric heaters.

(c) *Cooling.*

(i) Refrigerating machines.
(ii) Water screens; water jets.
(iii) Fans and blowers.

(d) *Ventilating.*

Air intakes, channels, ducts, gratings, louvres and outlets; plant for filtering, washing, drying, warming, cooling, humidifying, deodorising and perfuming, and for the chemical and bacteriological treatment of air; fans; blowers; gas burners, electric heaters, pipes and coils when used for causing or assisting air movement.

(e) *Lighting.*

(i) Gas pressure regulators; gas burners.
(ii) Plug-sockets and other outlets; electric lamps.

(f) *Draining.*

Pumps and other lifting apparatus; tanks; screens; sewage treatment machinery and plant.

(g) *Supplying Water.*

Pumps and other water-lifting apparatus; sluice-gates; tanks, filters and other machinery and plant for the storage and treatment of water.

(h) *Protection from Fire.*

Tanks; pumps; hydrants; sprinkler systems; fire alarm systems; lightning conductors.

SCHEDULE OF ACCESSORIES.

(1) In addition to the machinery and plant specified in paragraphs (*a*) to (*l*) of the Schedule to Class 1 (*a*), any of the following machinery and plant which is used or intended to be used mainly or exclusively in connection with the handling, preparing or storing of fuel required for the generation or storage of power in or on the hereditament:—

Cranes with their grabs or buckets; truck or wagon tipplers; elevating and conveying systems, including power winches, drags, elevators, hoists, conveyors, transporters, travellers, cranes, buckets forming a connected part of any such system, and any weighing machines used in connection therewith; magnetic separators; driers; breakers; pulverisers; bunkers; gasholders; tanks.

(2) Any of the following machinery and plant which is used or intended to be used mainly or exclusively as part of or in connection with or as an accessory to any of the machinery and plant falling within Class 1 (*a*) or Class 1 (*b*):—

(i) Foundations, settings, gantries, supports, platforms and stagings for machinery and plant;
(ii) Steam-condensing plant, compressors, exhausters, storage cylinders and vessels, fans, pumps and ejectors; ash-handling apparatus;
(iii) Travellers and cranes;
(iv) Oiling systems; earthing systems; cooling systems;
(v) Pipes, ducts, valves, traps, separators, filters, coolers, screens, purifying and other treatment apparatus, evaporators, tanks, exhaust boxes and silencers washers, scrubbers, condensers, air heaters, and air saturators.
(vi) Shafting supports, belts, ropes and chains.
(vii) Cables, conductors, wires, pipes, tubes, conduits, casings, poles, supports, insulators, joint boxes and end boxes.
(viii) Instruments and apparatus attached to the machinery and plant, including meters, gauges, measuring and recording instruments, automatic controls, temperature indicators and alarms and relays.

CLASS 2.

Lifts and elevators mainly or usually used for passengers.

CLASS 3.

Railway and tramway lines and tracks.

CLASS 4.

The following parts of a plant or a combination of plant and machinery whenever and only to such extent as any such part is, or is in the nature of, a building or structure:—

Acid Concentrators;
Bins and Hoppers;
Blast Furnaces;
Bunkers;
Burners, Forges, Furnaces, Kilns, Ovens and Stoves;
Chambers for:—
Absorption of gases or fumes;
Aerographing and Spraying;
Bleaching;
Chemical Reaction;
Conditioning or Treatment;
Cooling;
Drying;
Dust or Fume Collecting;
Fibre separation (Wool Carbonising);
Fuming;
Impregnating;
Refrigerating;
Regenerating;
Sandblasting;
Sterilising;
Sulphuric Acid.
Chimneys;
Coking Ovens;
Condensers and Scrubbers:—
Acid;
Alkali;
Gas;
Oil;
Tar;
Conveyor gantries;
Cooling Ponds;

Crane gantries ;
Cupolas ;
Economisers ;
Elevators and Hoists ;
Evaporators ;
Fan Drifts ;
Floating Docks and Pontoons, with any Bridges or Gangways not of a temporary nature used in connection therewith ;
Flues ;
Flumes and Conduits ;
Foundations, Settings, Gantries, Supports, Platforms and Stagings for plant and machinery.
Gas :—
  Holders ; Purifiers and Cleansers.
  Producers and Generators ;
Headgear :—
  Mine, Quarry and Pit ; Well.
Hydraulic Accumulators.
Pits, Beds and Bays :—
  Casting ; Liming, Soaking, Tanning,
  Cooling ; or other Treatment ;
  Drop ; Settling.
  Inspection or Testing ;
Racks ;
Refuse Destructors and Incinerators ;
Retorts ;
Ship Construction and Repair :—
  Slipways ; Cradles ;
  Uprights ; Grids.
Silos ;
Stages, Staithes and Platforms for loading, unloading and handling material.
Stills ;
Superheaters ;
Tanks ;
Towers for :—
  Absorption of gases or fumes ; Oil Refining and Condensing ;
  Chemical Reaction ; Treatment ;
  Cooling ; Water.
Transporter gantries
Transversers and Turntables ;
Vats ;
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